

# JUDAISM

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## **A DYNAMIC HALAKHAH: PRINCIPLES AND PROCEDURES OF JEWISH LAW**

**Robert Gordis**

## **NAZISM RESURGENT**

**AMONG TWO HUNDRED SURVIVORS FROM AUSCHWITZ**

**Ragnar Kvam**

**THE STRANGE CASE OF FEODOR FEDORENKO**

**Matthew Rinaldi**

## **PROBLEMS AFTER PEACE FOR ISRAEL**

**Melvin I. Urofsky**

**Eliezer Berkovits**

## **THE EVOLUTION OF THE MASADA MYTH**

**Baila R. Shargel**

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JUDAISM, conceived as a free and non-partisan organ, is dedicated to the creative discussion and exposition of the religious, moral and philosophical concepts of Judaism and their relevance to the problems of modern society. Through an exploration of the meaning and needs of the Jewish experience, it hopes to widen the channels of communication between Jews and to affirm Jewish verity and vitality to the world at large.

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# JUDAISM

A QUARTERLY JOURNAL

Issue No. 111 / Volume 28 / Number 3 / Summer 1979

*The First Reader* R.G. 259

*A Dynamic Halakhah: Principles and Procedures  
of Jewish Law* ROBERT GORDIS 263

## NAZISM RESURGENT

*Among Two Hundred Survivors From Auschwitz*  
(Translated by Otto Reinert) RAGNAR KVAM 283

*The Disturbing Case of Feodor Fedorenko* MATTHEW RINALDI 293

*Paranoia About Fundamentalists?* DAVID A. RAUSCH 304

*The Creation in Jewish Liturgy* JAKOB J. PETUCHOWSKI 309

*Why Do The Righteous Suffer? Notes Toward  
a Theology of Tragedy* HAROLD S. KUSHNER 316

*Looking Beyond Peace: The Family at Odds* MELVIN I. UROFSKY 324

*Identity Problems in the State of Israel* ELIEZER BERKOVITS 334

*Was Spinoza A "Jewish" Philosopher?* ISAAC FRANCK 345

*The Mystery of the Red Heifer: A Scientific Midrash* WILLIAM ETKIN 353

*The Evolution of the Masada Myth* BAILA R. SHARGEL 357

*Coming Out of the Assimilationist Closet:  
Confessional Notes, Delivered from the Lectern* SANFORD PINSKER 373

## REVIEWS

*Jewish Identity in an Age of Ideologies*  
by Jacob B. Agus CHARLES S. LIEBMAN 381

*Reform Judaism Today. Book Two:  
What We Believe*  
by Eugene B. Borowitz S. DANIEL BRESLAUER 382



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STATEMENT OF PURPOSE

In increasing measure, modern men are turning again to the quest for a worldview on the issues that are timeless—the meaning of life, the challenge of death, the purpose of suffering, the significance of the individual, his relation to society, and the goal of history. In order to advance this enterprise of spiritual discovery of our time this Journal has been projected. It will be primarily concerned with the philosophy, ethics, and religion of Judaism as a factor in the contemporary world . . .

We are committed to the proposition that Judaism has positive value today for Jews and for the world . . . At the same time, we disassociate ourselves from the dangerous tendency toward the hardening of party lines on the contemporary Jewish scene . . . The members of the Board of Editors belong to every school of Jewish life or to none. The trends popularly referred to as Orthodox, Conservatism, Reform, Reconstructionism, as well as others that as yet have no specific names, have their advocates among us, though no institution or movement is officially represented . . . Undoubtedly, our differences will find expression in these pages, but we shall be at one in opposing the dogmatism which takes for granted that one's own particular standpoint has a monopoly on truth and the authoritarianism which would suppress any contrary point of view.

*Judaism* will be dedicated to the quest for truth in the spirit of freedom. Our columns will be open to anyone who has something significant to say and the ability to say it well. New and unconventional interpretations, whatever their standpoint, will be welcomed from every source, for we share the conviction of the Talmud that "Both these and the others are the words of the living God." *From the introductory article by Robert Gordis, "Toward a Renaissance of Judaism" in Vol. I, No. 1.*

## *The First Reader*

### *The Halakhah Was Never Static*

It has been frequently noted that differences among groups and individuals in Judaism have revolved primarily about issues of law and practice rather than dogma and belief. To be sure, concerns of the second type are by no means lacking. It is, however, the first area, that of Halakhah, that has been at the center of religious debate from earliest times to the present.

In our day, we have the advantage of a century and a half of historical research that has revealed the process by which Jewish law has grown and the factors that stimulated its development. Without the insights afforded by modern scholarship, one may know the data in the Halakhah, but not understand their meaning and direction. These are explored by *Robert Gordis* in the paper entitled, "A Dynamic Halakhah: Principles and Procedures of Jewish Law."

### *Nazism Resurgent*

It is a deeply rooted characteristic of human nature to fluctuate from one extreme to the other, from one pole to its opposite. The "pendulum syndrome," encountered everywhere in human affairs, helps to explain the rise and fall of reputations in literature, music and art, the emergence of fads and fashions and their disappearance, and many other aspects of the human condition. This trait may lie at the root of the tendency to "revisionism" in the field of history. It frequently happens that historians who have pursued their research for years are succeeded by a new generation that denies what has been affirmed, proclaims what has been disproved, and rewrites the past in accordance with new attitudes.

"Revisionism," however, does not explain the mounting evidence that Nazism has re-surfaced in our day. Today, the rehabilitation of Hitler and the other beasts in human form who were his associates, the blatant denial of the genocide of six million Jews and millions of other human beings, the "reinterpretation" of the Nazi "philosophy" are proceeding apace throughout the world.

In his paper, "Among Two Hundred Survivors From Auschwitz," *Ragnar Kvam* offers dismaying evidence of the truth of Shakespeare's line, "The evil that men do lives after them."

More than the evil, however, lives on. The perpetrators of the greatest horror in history are allowed to live free and secure lives, without fear of punishment. A tragic instance in the United States is examined by *Matthew Rinaldi* in his paper, "The Strange Case of Feodor Fedorenko."

*Who Are Our Friends?*

Until very recently, the conventional wisdom was that the natural “allies” of Jews among the Christians were to be found among the liberals. It was there that the Jewish community and its aspirations were likely to find the greatest measure of understanding, since liberal Protestantism, by definition, was dedicated to tolerance.

The events of the past few decades have demonstrated once again that life and logic are not always parallel. The horror of the Holocaust evoked a deafening silence in all branches of the Christian church. Only a few great souls — and these by no means necessarily among the official leadership — spoke out against Nazi bestiality, or took active steps to save Jewish lives. They were, often as not, likely to be Catholics rather than Protestants, and evangelical Protestants rather than liberals.

The creation of the State of Israel and its heroic persistence in the face of an onslaught by both the Communist world and the Arab states evoked a similarly unexpected reaction. With the exception of a few outstanding figures, like Alice and Roy Eckardt and Franklin Littell, to name a few, Christian liberalism has been antagonistic. On the other hand, Fundamentalist Christianity has evinced a warm sympathy and support for the State. This phenomenon is examined by *David A. Rausch* in his paper, “Paranoia About Fundamentalists?”

*God the Creator*

The attentive reader of the Bible and of other classic Jewish sources will be struck by the fact that it is basically God in history who is the center of Jewish belief. The God of nature, while not absent from the Jewish religious consciousness — (see the opening chapters of Genesis) — is less frequently invoked than is the God whose law of righteousness operates in the affairs of men and nations, and who determines human destiny.

Nevertheless, creation is a fundamental theme in Jewish faith. In his paper, “The Creation in Jewish Liturgy,” *Jakob J. Petuchowski* calls attention to its importance in Jewish liturgical texts.

*The Everlasting Query*

Throughout time, the greatest stumbling block to religious faith and the most agonizing question in human experience has been the perennial cry, “Why Do The Righteous Suffer?” In drawing upon ancient Biblical and Rabbinic sources, *Harold S. Kushner* approaches this ageless mystery with freshness, clarity and sympathy. He proposes both a theoretic answer and a pragmatic approach to the question.

*What Does The Future Hold For Us?*

The position of the State of Israel in a volatile, indeed volcanic, Middle East makes every projection of the future highly problematic — and all the more irresistible. Looking back upon the recent history of Israel and its relations with Jews elsewhere, *Melvin Urofsky* seeks to project the possibilities for the future in his paper, “Looking Beyond Peace: The Family at Odds.” The paper was written while steps were being taken toward the peace treaty that has already been signed between Israel and Egypt. Its message is now all the more timely.

*Who and What is the Israeli Jew?*

The international problems confronting the State of Israel today are absorbing the passionate interest and concern of Jews the world over. There are, however, other fundamental issues which superficially may appear to be less dramatic. Yet, ultimately, they may determine the destiny of the state and the people of Israel, for good or for ill, far more effectively than the shifting tides of politics and diplomacy. Most basic of all is the question of Jewish identity and the relationship of the individual Israeli to his people's past and present as the key to its future.

In a searching paper, “Identity Problems in the State of Israel,” *Eliezer Berkovits* challenges both the secularism and the contemporary religiosity there. He finds the former sadly lacking in staying power, while the latter is woefully deficient in its responsiveness to the world we live in.

*Spinoza Analyzed*

It is generally known that Spinoza was a Jew not only by birth, but also by culture and background. In his early years, he had drunk deeply of the wells of Torah, having studied the Bible and its commentaries and, above all, the major Jewish philosophers in the Middle Ages. Their considerable influence upon him is clear. It is equally evident that he had hewn out his own path during the years of his maturity and creative activity.

Is Spinoza a continuation of the medieval philosophic tradition in Judaism, extending from Saadia to Crescas, or is he a break with it? To this question, *Isaac Franck* addresses himself in “Was Spinoza a ‘Jewish’ Philosopher?,” the second of two papers dealing with this great thinker.

*A New Light on the Red Heifer*

The overwhelming majority of Biblical laws have been generally regarded as rational, serving recognizable ends in the life of the individual and society. There were, however, some exceptions which the Rabbis of the Talmud called *hukkim*, commandments for which no rational purpose

could be discerned, but where obedience was commanded by Divine fiat. The classic example was related to the “red heifer,” an elaborate ritual for the preparation of the ashes of a brown-red cow for purposes of purification after ritual uncleanness. The ritual is described in Numbers: 19 and is elaborated upon in the Talmud.

In his paper, “The Mystery of the Red Heifer: A Scientific Midrash,” *William Etkin* suggests that this mysterious ritual has both a scientific and an ethical function. It implies a recognition of the principle of inoculation against disease viewed both physically and spiritually. In addition, the solemnity of the rite helped to highlight the sanctity of the human body even after death.

### *The Power of a Myth*

The Saga of Masada, the heroic and tragic last stand of the Zealots against Rome, has captured the imagination of Jews the world over, particularly during the last decades that have marked the emergence of the State of Israel on the one hand and the archaeological discoveries at Masada on the other.

In her paper, “The Evolution of the Masada Myth,” *Baila R. Shargel* is not primarily concerned with the historicity of the event and the trustworthiness of Josephus, the ancient Jewish historian who is virtually our only source for the entire episode. Her interest is in analyzing the “myth,” the significant interpretation given to it in modern Israel for the purpose of legitimating the Jewish position and integrating the entire Jewish community in a powerful bond of unity.

### *It's Easier To Be Jewish Now*

The relationship of the American-Jewish intellectual to his Jewish heritage has been a subject of growing interest in our day. The truth is, of course, that the experience of each individual in every period differs from every other, complicating, if not totally undermining, any effort at generalization.

Hence, a case-history may be more illuminating — and surely more interesting — than overall “surveys” painted with a thick brush. In his paper, “Coming Out of the Assimilationist Closet: Confessional Notes, Delivered from the Lectern,” *Sanford Pinsker* traces the trajectory of his own career and, incidentally, sheds light upon the path followed by many younger academics and writers in the American Jewish community.

R. G.



# *A Dynamic Halakhah: Principles and Procedures of Jewish Law*

ROBERT GORDIS

NO SERIOUS DISCUSSION ON THE NATURE of Judaism or of its experience in the past, its condition in the present, or its prospects for the future can proceed very far without the introduction of the term Halakhah. The word, derived from the Hebrew root *halakh*, "go, walk," means "the Way" and refers to the body of Jewish law and practice by which the Jewish people has been governed during its long pilgrimage through time.

Tradition found the origin of Halakhah in the written Torah of Moses, which required oral elucidation and interpretation. Halakhah became the central intellectual and spiritual enterprise of the Jewish people after the Babylonian Exile, with the arrival of Ezra the Sopher, "master of the book," in Palestine in the middle of the fifth century B.C.E. It continued to be cultivated by the Sopherim (fifth to the second centuries B.C.E.) and by their successors, the Pharisees (second century B.C.E.–70 C.E.). It assumed literary form in the Mishnah and the early Midrashim at the beginning of the third century C.E. The Mishnah, in turn, became the subject of detailed analysis and extensive interpretation in the Gemara, carried on by the Amoraim, "expounders," in Palestine and in Babylonia.

After the sixth century, the Mishnah and the Gemara, now constituting the Talmud, served as the basis for the activities of the Saboraim (6th–7th centuries C.E.) and the Geonim, the heads of the great Babylonian academies (7th–11th centuries C.E.). After the decline of the Babylonian center, a multiplicity of Jewish centers of settlement arose in North Africa, Spain, Provence, Italy, Germany and Poland. They created new forms in which the Halakhah continued to grow — legal treatises, commentaries, all-inclusive codes and Responsa by individual scholars. The latter have continued to augment the Halakhah until the present day.

A true understanding of the nature of the Halakhah and of the principles and procedures by which it grew is fundamental for comprehending the past history of Judaism, as well as its present and future.

## *Fundamental Principles*

A basic concept in traditional Judaism is the *authority of the Halakhah*. For several reasons this formulation is much to be preferred to the term "the supremacy of the Halakhah," which has the triumphalist ring of a battle waged against enemies. A less pragmatic difficulty with the latter

phrase, but one of ultimately deeper significance, is that it connotes a confrontation between the Halakhah and the world. This approach, as will be spelled out below, rests on a basic misunderstanding of the nature of Halakhah itself.

The past two centuries of brilliant and dedicated research in Jewish law, literature and life have demonstrated that the *Halakhah has a history* that reveals the dialectic of continuity and change at every given point. The researches in history and literature of Leopold Zunz, Nachman Krochmal, Solomon Judah Löb Rapoport, Samuel David Luzzatto, Heinrich Graetz and Harry A. Wolfson, as well as the studies in law and institutions of Zacharias Frankel, Abraham Geiger, Isaac Hirsch Weiss, Jacob Lauterbach, Solomon Schechter, Louis Ginzberg, Chaim Tchernowitz and Solomon Zeitlin, together with their fellows and successors in our own day, have supplied abundant evidence that the law of growth and development, which is universal throughout nature and society, applies to Judaism as well. The record is clear that Jewish law was never monolithic and unchanged in the past. There are, therefore, no grounds for decreeing that it must be motionless in the present and immovable in the future.

Jewish tradition is best compared to a flowing river which possesses a mainstream, but also side-currents and even cross-currents that affect its flow significantly. To be sure, it is not always easy to determine at every point which is the dominant and which is the secondary current. At the time that the issues were being debated, the Rabbinic sages were sure that the Sadducees were not in the mainstream of the tradition. But they had no such certainty at the time with regard to the controversies of Hillel and Shammai, Rabbi Akiba and Rabbi Ishmael, Rab and Samuel, Raba and Abaya. Even in retrospect, when we have the benefit of hindsight, it requires a high level of knowledge, insight and intellectual integrity to recognize the difference between the normative tradition and aberrant groups in Judaism, *and to do justice to the contributions of both*.

The dynamic of tradition, the method by which the Halakhah grows in the process of transmission, has been illumined and delineated by modern Jewish scholarship. When the tradition is alive and well, a process of interaction sets in. Each age receives a body of doctrine and law from the period preceding. This body of tradition from the past comes into contact with the conditions, problems and insights of the present. A complex interaction between past tradition and contemporary life now takes place. The spiritual and intellectual leadership in Judaism is called upon to evaluate these new elements, struggling to be admitted into the sanctuary of the tradition. Some aspects it will recognize as dangerous and ill-advised and will reject in toto. Others it will judge to be ethically sound, religiously true and pragmatically valuable, and these will be incorporated into the content of tradition. Many new phenomena, if not most, will be judged to contain both positive and negative elements. The former will be accepted in greater or lesser degree, often after being modified so as to

bring them into greater conformity with the spirit and the form of the tradition. To utilize the familiar but useful terminology of Hegel, past tradition constitutes the thesis, contemporary life is the antithesis, and the resultant of these two factors becomes the new synthesis. The synthesis of one age then becomes the thesis of the next; the newly formulated content of tradition becomes the point of departure for the next stage.

This is not to suggest even remotely that tradition is bound to surrender to "the spirit of the age." It is always free, indeed commanded, to examine the demands and insights of each generation and to accept, modify or reject them as it sees fit. But when the tradition is healthy or, more concretely, when its exemplars are true to their function, they will be sensitive to the age and respond to it. Often, if not generally, there will be sharp divergences of views as to the validity of these new factors and how the tradition should respond to them. Indeed, the issue may remain *in suspenso* for some time. Ultimately, however, life is the determining factor and from its decision there is no appeal.

This dialectic process, that has operated throughout the history of Judaism and is the secret of its capacity to survive, can be documented in all areas — ritual, civil and criminal law, marriage and divorce. It is most evident in the great creative eras of Rabbinic Judaism — the Tannaitic and the Amoraic periods, that saw the creation of the Mishnah and the Talmud. With the advent of the Middle Ages came an increasing incidence of persecution, spoliation and harassment, not to speak of frequent expulsion and massacre. Inevitably, these mounting tragedies brought about a decline of creative vitality and a narrowing of perspective in all aspects of Judaism, Halakhah included. The Expulsion from Spain and Portugal, the Thirty Years War in Germany, the Chmielnicki massacres in Poland and the debacle of Shabbetai Zevi, the "false Messiah," that all but destroyed Jewish morale, brought about an ever increasing ghettoization of the spirit of the Jewish community. Medieval Jewish leadership necessarily made Jewish group survival, rather than the needs, interests and desires of the individual, their basic concern. The strength of their influence on the present state of the Halakhah can scarcely be exaggerated, since, for the bulk of East-European Jewry, the Middle Ages continued until the twentieth century.

From this paradigm of the dynamic of the Halakhah, an important theoretical and pragmatic conclusion emerges: *The Halakhah is not to be conceived of as being locked in mortal combat with the contemporary age, the demands of which are, therefore, to be resisted with every means at its disposal.* The Halakhah itself comprises both elements in the dialectic: continuity with the past and growth induced by the present. The evidence for the operation of this principle in the past and its significance for the future will be discussed below.

*Methods of the Halakhah*

The techniques of the Halakhah are significant not only for their own sake. They reveal the openness of the tradition and the interplay of law and life, and thus illumine the creative resolution of the tension between them. This characteristic enabled the Halakhah to survive and function successfully under such radically changing social, economic and political conditions as the Hellenistic-Roman world, the Christian church-state, Islamic polity, the feudal system, the early laissez-faire capitalist order, the emergence of democracy and the welfare state, and, we profoundly believe, the as yet unknown social orders of the future.

The origins of the Oral Law are to be found in the Biblical period — for, indeed, no written law can be functional without an oral law at its side. However, the Halakhah became the basic spiritual enterprise in Judaism with Ezra, of whom the Sages justly remark, “Ezra was worthy of having the Torah given through him had not Moses preceded him.”<sup>1</sup> With his successors, the Sopherim, the two basic techniques of the Halakhah emerge.<sup>2</sup>

One method, that of *Midrash*, is deductive; the other, *Mishnah* or *Halakhah*, is inductive. The Midrash method takes its point of departure from a minute study of the Biblical text, which it searches out and analyzes, in order to deduce implications for contemporary life. The Mishnah method, on the other hand, has its origin in a life-situation. When a problem or a legal case arises, the decision is reached by the accepted authorities on the basis of their religious and ethical perceptions. They then seek to relate to a Biblical text which becomes its formal source and validation.

While there is no iron curtain separating the two procedures and the same authorities, Sopheric and Tannaitic, participated in both methods, two distinct types of literature emerged. The deductive method is embodied principally in the Halakhic Midrashim, *Mekhilta*, *Sifra* and *Sifre*, which reached their present form early in the third century C.E. The inductive method is embodied in the Mishnah, compiled by Rabbi Judah Hanasi at about the same time.

Thereafter, the fortunes of the two techniques diverged radically. The method of Halakhic Midrash was virtually exhausted in the Tannaitic age and no significant Halakhic Midrashim emerged thereafter. The reason is not far to seek. While the Torah is, indeed, “longer than the earth in measure and broader than the sea,”<sup>3</sup> the legal passages in the Torah total only a few hundred verses in all. No matter how fruitful the text and ingenious the method of interpretation, there are limits which

1. B. *Sanhedrin* 21b.

2. Cf. *inter alios* J.Z. Lauterbach, *Midrash and Mishnah* (New York, 1916), pp. 61–64; J.N. Epstein, *Mebho'ot Lesifrut Hatannaim* (Jerusalem, 1957); L. Ginzberg, *Jewish Law and Lore* (Philadelphia, 1955), chap. 1.

3. Job 11:9.

changing conditions and new insights ultimately reached. The possibilities of Midrash are, therefore, inevitably limited by the parameters of the text.

The inductive method of Mishnah, on the other hand, which has its starting point in life-situations, is as unlimited as life itself, with each day creating configurations of men and circumstances. Hence, the Mishnah of Rabbi Judah Hanasi included only a portion, albeit the most significant one, of the material available to the redactor. Even the second compilation of Tannaitic material, the Tosefta, attributed to his contemporary, Rabbi Hiyya, did not exhaust this material. Hundreds of *Baraitot*, "external traditions," survived outside both collections as *disjecta membra* and have been preserved only because they were later cited in the Gemara.<sup>4</sup>

The entire later development of Halakhah followed the method of Mishnah rather than Midrash. Predominantly, the Halakhah began with life, which it sought to relate to the body of accumulated tradition. This is true of the Gemara both of Palestine and Babylonia. It is, of course, the method par excellence of the Rabbinic *Responsa* which have become a mighty stream, showing no signs of diminution even today after a millennium and a half.

The availability of this technique of Mishnah, deriving its impetus from life, created the potential for a Halakhah that would be appropriate to all times and conditions. This potential was actualized because in each generation there were scholars possessing the insight, compassion and courage to apply the Halakhah of the past to the problems of the present.

#### *Basic Factors in the Growth of Halakhah*

In essence, there were two factors making for growth in the Halakhah — one *external* and the second *internal*. The first was *the necessity to respond to new external conditions — social, economic, political, or cultural* — that posed a challenge or even a threat to accepted religious and ethical values. The second was the need to give recognition to *new ethical insights and attitudes* and to embody them in the life of the people, even if there was no change in objective conditions. The operation of both factors may be illustrated in all areas of life. Moreover, these factors functioned actively in every period of Jewish history — ancient, medieval and modern.

#### *Responsiveness to New Conditions*

The impact of *new social conditions* on the Halakhah is clearly evident in the pages of the Mishnah. Observers of the contemporary scene in our day are wont to lament the erosion of ethical standards and the corruption of human behavior in the life of society as a whole and of its individual

4. They were collected and arranged in a series of ten volumes by M. Higger, *Ozar Habaraitot* (New York, 1938–1948).



members. The Rabbis of the Greco-Roman Era were confronted by a similar breakdown of accepted norms of behavior. In several striking cases, they responded to the challenge by abrogating ancient laws laid down in the Torah which no longer served their original purpose.

One such practice was the ritual of the public expiation of an unsolved murder through the breaking of the neck of a calf accompanied by a litany of atonement pronounced by the elders of the nearest city (*‘eglah ‘aruphah*) (Deuteronomy 21:1-7). Another was an ordeal in which a woman suspected by her husband of infidelity (*Sotah*) had to drink “bitter waters” (Numbers 5:11-31). These antique rites, Biblical in origin, were no longer adequate in Rabbinic times, because of new social conditions. These were explicitly recognized in the Mishnah, *Sotah* 9:9:

When the murderers increased, the rite of the *‘eglah ‘aruphah* was given up (*batlah*) . . .

When adulterers increased, the bitter waters ceased to be employed (*pasku*). It was Rabbi Johanan ben Zakkai who abrogated the practice, for it is said:

“I will not punish their daughters for playing the harlot  
nor their daughters-in-law for committing adultery,  
For the men indulge their lust with harlots  
and sacrifice with prostitutes” (Hosea 4:14).

It is noteworthy that the prophet Hosea’s words constitute the oldest extant protest against the double standard of sexual morality that has prevailed for millennia, and down to our own day. It is equally significant that Rabbi Johanan ben Zakkai finds a warrant in the prophet’s words for dispensing with a Biblical ordinance.

There are also many examples of the Halakhah responding to *new economic conditions*. A classic one is Hillel’s *taqqanah* of the Prosbul. Out of its deep solicitude for the well-being of those in need, the Torah lays down the principle that a debt which has remained unpaid for six years is to be cancelled on the seventh, “the year of release.”<sup>5</sup> This norm operated to the advantage of the under-privileged in the primitive economy of the First Temple. In a simple, rural-urban society, a farmer would borrow money only when some disaster, such as sickness or drought, had left him and his family destitute. Hence, virtually all lending of money was a form of charity. However, in the more advanced agri-urban economy of the Greco-Roman world, the cancellation of unpaid debts in the seventh year proved to be a major obstacle to the securing of credit. The prospect of having debts wiped out at the end of six years served “to shut the door against borrowers,” as the Talmud observes.<sup>6</sup> Accordingly, Hillel established a far-reaching *taqqanah*. Falling back upon the words of the Biblical text, “The creditor shall release his hand on the seventh year from the debt he sought to collect from the borrower,” he ruled that the Torah

5. Deut. 16:1-6.

6. For this formulation, see Rashi, *Gittin* 37a, top. The Mishnah generalizes the reason as *mipnei tiqqun ha’olam*, “for the improvement of society.”

forbade *the creditor*, but not the courts, to collect the debt in the seventh year, so that if a man transferred the debt to the court, it would be collectable after "the year of release."<sup>7</sup>

Superficially viewed, Hillel's *tagganah* would seem to represent a total abrogation of the law. Actually, the objective of both the Torah and of Hillel was identical — to make economic help available to those in need. New conditions required radically different, even apparently contrary, procedures for achieving the same goal.

The Halakhah exhibits another related instance of its responsiveness to changed economic conditions. As the relatively simple economy of the First Temple days was transformed into the more complex socio-economic order of the Roman and the Parthian Empires, the Biblical prohibition against taking interest from Jews<sup>8</sup> posed a major obstacle to the free-flow of credit. The Talmud was clearly aware of the problem and permitted a variety of practices bordering on the direct taking of interest (*'abhak ribbit*, "dust of usury").<sup>9</sup> As the economic order became increasingly complex, interest became the life blood of commerce and industry. In the Middle Ages, the use of a legal fiction became widespread. A document "permitting a business transaction" (*sh'tar heter 'isqa*) was signed, in which the lender became a partner *pro forma* in the business enterprise of the borrower, thereby protecting the lender against any loss and guaranteeing him a minimum fixed "profit."

In the case of the *Proshbul* and the taking of the interest, the new stage in economic development was permanent. In other instances, *the changed conditions were of limited scope, either in time or space*. Even here, the Rabbis did not hesitate to make the Halakhah responsive to felt needs by drastic modifications in the law. Two instances *in the area of ritual* may be cited. According to Biblical law, a woman was obligated to bring an offering of two doves or pigeons to the sanctuary for each birth.<sup>10</sup> Since a family did not make the pilgrimage to Jerusalem each year, a woman who had borne several children since her last visit might require four, six or eight birds for the offering.

One year, the merchants took advantage of the heavy demand for the fowl and drastically raised the price. Rabban Simeon ben Gamaliel thereupon ordained that a woman was required to bring only one pair of birds to the Temple even after several childbirths. As a result the price quickly reverted to normal.<sup>11</sup>

7. M. *Shev'it* 10:3. "This is the text of the Proshbul, 'I declare (*mosrani*) to you, judges in this place, that, any debt owing to me, I may collect whenever I choose.' The judges or the witnesses sign below." See also B. *Sanhedrin* 32a, B. *Arakhin* 28b.

8. Cf. Deut. 23:20f.

9. For a conspectus of the history of interest ("usury" in its older meaning) see *Jewish Encyclopedia*, s.v. "Usury," vol. XII, pp. 388–92, and *Encyclopedia Judaica*, s.v. "Usury," vol. 16, pp. 27–32.

10. Lev. 12:8.

11. M. *Keritot*, chap. 1 end.

The second instance occurred in the Amoraic period in Babylonia, where people were accustomed to discard their ordinary earthen pots before Pesah, thus creating a high demand for new crockery after the holiday. The hardware merchants took advantage of the increased demand and raised their prices exorbitantly. The Amora Samuel threatened to accept and proclaim Rabbi Simeon's view that the *ḥamez* pots did not need to be broken before Pesah, but could be used after the festival. The threat was sufficient to bring down the price.<sup>12</sup>

These two instances are highly interesting, for they reveal the ethical sensitivity of the Sages and their responsiveness to contemporary conditions. They did not hesitate to set aside what they understood to be the law in the Torah. But, in each case, the situation that they sought to meet was of limited scope in time and space, affecting one locality at one specific period. Their morally courageous actions did not spring from any change in accepted ethical attitudes. Fleecing the poor for personal gain is as old as human society, and denunciations of this evil fill the pages of the Prophets.<sup>13</sup>

#### *New Ethical Insights and Attitudes*

Even more significant is the clear evidence of growth and development in the Halakhah because of *new ethical insights and attitudes that represent movement beyond earlier positions*. In these instances the Halakhah did not hesitate to establish new legal norms, not local or temporary in character, but universally and permanently binding. We shall adduce two instances that testify to the dynamic character of the ethical consciousness of the Sages and to their unremitting effort to interpret the Torah in the light of their ethical insights. Both cases are derived from the same Biblical passage, Deut. 21:15-21.

The Lawgiver sets down side by side two provisions of family law.<sup>14</sup> The first is concerned with the law of inheritance, the second with the law of "the stubborn and rebellious son." Both paragraphs are expressed in the identical casuistic style, "If a man has two wives" and "If a man has a stubborn and rebellious son." Both were equally meant to be regarded as operative law.<sup>15</sup> Yet it is noteworthy that the two similarly formulated provisions sustained radically different treatment in Rabbinic Judaism, neither being treated literally.

In the first passage, the Torah ordains that the eldest son in the family must receive as his inheritance *pi sh'ḥayim bekol asher yimaze lo*. This

12. B. *Pesahim* 30a.

13. Amos 2:6-8; Isa. 3:13-15; Micah 3:1-4 may be cited among many.

14. Deut. 21:15-17 and 21:18-21.

15. For the two major modes in the formulation of Biblical law, casuistic and apodictic, see A. Alt, *Der Ursprung des israelitischen Rechts*, translated into English as "The Origins of Israelite Law," in A. Alt, *Essays on Old Testament History and Religion*, trans. by R.A. Wilson (New York, 1967), pp. 161-71.

can have only one meaning, “two parts (out of three),” that is, two-thirds of the entire estate. The meaning of the idiom is not subject to doubt in the least. Thus, when at the translation of Elijah to heaven the young Elisha asks: *vīyehi na’ pi sh’nayim beruhakha ‘eylai* (II Kings 2:9), he is obviously not demanding that he receive double the Divine Spirit granted to his master, but, more properly, only two-thirds. The meaning is even more explicit in Zechariah 13:8: “In the whole land, says the Lord, two thirds (*pi sh’nayim*) shall be cut off and perish, and one third (*hashlishit*) shall be left alive.”

The Rabbis had an incomparable knowledge of the Biblical text in minutest detail. They were adept in invoking a *gezerah shavah*, comparing two similar or identical usages in language, however remote from one another in location or in theme. Now the text in Deuteronomy (21:15-17) is clear, and the passages in Kings and Zechariah remove any possible doubt about the meaning of the idiom. Yet, the Rabbis do not invoke these parallel usages. Instead, they engage in a casuistic discussion which reveals that they were aware of the original meaning:

Does the Torah mean double any other brother’s share, or two parts (out of three) of all his possessions? You may argue it as follows: Since the eldest son inherits at times with one other brother and at times with five, just as he receives double when there is one other brother, so he receives double any other portion if there are five. Or follow another line of reasoning — since he receives two parts of the estate when there is one other brother, he should receive two parts of the entire estate when there are five! The verse instructs us, “In the day that he gives an inheritance to his sons.” The verse has added *to his sons* (and made the sons the measure of the inheritance).<sup>16</sup>

Other Biblical verses that are unclear are then adduced<sup>17</sup> to support the conclusion that the first-born receives twice the share of any other brother and not two-thirds. To reach the desired conclusion, the clear-cut passages in Kings and Zechariah where the identical phrase is used are passed over in silence. The reason is clear. The Rabbis sought to limit the prerogatives of the first-born, so that in a family of five sons, for example, he would receive two-sixths and not two-thirds of the patrimony. In this moderate form, the Rabbis found the verse in conformity with their standards of equity, or at least not in violent conflict with them. They never doubted that the Torah, being the word of God, embodied the highest level of justice; anything else would have been unthinkable.

Quite different was the fate of the adjoining provision in the Torah dealing with “the stubborn and rebellious son.” To be sure, the law in Deuteronomy requires a trial for the son before the elders of the city at the gate, thus representing a great step forward in the protection of the young. In other cultures, the *patria potestas* was virtually unlimited, so that

16. *Sifrei, Devarim* (ed. L. Finkelstein), sec. 117, p. 250. In B. *Baba Batra* 122b, 123a, the same reasoning is presented in slightly different form.

17. Gen. 49:22 and I Chron. 5:1 f.

a father could beat or even kill his child without being answerable for the act. The Torah denies to the father the right to take the law into his own hands and insists upon a trial of the alleged culprit. However, in Talmudic times, even the literal meaning of the text, while more moderate, was no longer in harmony with the moral sensitivity of the Rabbis. Obviously, the Law of God could not be inferior to the conscience of men.

The Halakhah, therefore, proceeded to apply a series of casuistic limitations to the text in Deuteronomy which made the law totally inoperative in practice. Thus, to cite only one set of restrictions out of many, if either parent was deaf, mute or blind, crippled or a dwarf, the law did not apply. Perhaps the most remarkable statement is the *Baraita*: "Rabbi Judah says, If his father and his mother are not identical in voice, appearance and height, he cannot be treated as a stubborn and rebellious son!"<sup>18</sup> As a result, the Rabbis declared that the Biblical ordinance regarding "the stubborn and rebellious son," like that ordaining the total destruction of "the idolatrous city,"<sup>19</sup> "never was and never was destined to be."<sup>20</sup> They explained that the law was placed in the Torah merely to stimulate the hermeneutical skill of the Sages and to serve as a warning to possible youthful offenders.<sup>21</sup>

Here we can see the genius of Rabbinic Judaism at work. In one case, the law was modified to meet the demands of justice as the Sages understood it. In the other, the law was completely set aside because the Rabbis could not reconcile it with their ethical stance and their fundamental faith that the Torah was designed to teach men to practice justice and mercy. In both instances, as in many other provisions in the Mishnah and the Talmud, the dynamic of the Halakhah is clearly evident. What remains constant from the Bible to the Talmud and beyond is the ethical goal of "righteousness and justice, lovingkindness and mercy."<sup>22</sup>

### *Criminal Law*

In the area of *criminal law*, the best known instance of the Halakhah responding to deepening ethical insights is to be found in the Rabbis' attitude towards *capital punishment*. While Biblical legislation prescribed the death penalty for many crimes, the Halakhah interposed a large variety of safeguards before such a sentence could be carried out. The most notable was *hatra'ah*, "warning," the requirement that there must be two adult male witnesses who have expressly informed the sinner of the gravity of his contemplated crime and the specific penalty that it entails,

18. For the plethora of limitations introduced by the Rabbis, see M. *Sanhedrin* 8:1-4 and the Gemara, *Sanhedrin* 71a.

19. Cf Deut. 13:13 ff.

20. B. *Sanhedrin* 71a.

21. Ibid.

22. Hos. 2:21.



followed by his explicit admission that he is aware of both the crime and the penalty.<sup>23</sup>

Undoubtedly, a good deal of Halakhah in the area of criminal jurisprudence is utopian in character, deriving from the period of Roman hegemony, when the Jewish courts no longer had jurisdiction in capital cases. Nevertheless, the spirit of Jewish law is clear from the famous statement that a Sanhedrin that had convicted a criminal once in seven (or seventy) years was called a "murderous Sanhedrin."<sup>24</sup> Equally eloquent is the appended statement of Rabbis Tarphon and Akiba that, had they been members of that court, even the single execution would not have taken place.

Here, too, viewed externally, these provisions of the Halakhah would seem to make Biblical law inoperative in practice. In a deeper sense, however, the Rabbis were fulfilling the implications of the Biblical worldview. One of its pillars is the concept of the sanctity of human life which goes back to the covenant with Noah.<sup>25</sup> There the eating of the life blood is forbidden and is linked to the prohibition of murder, which is a desecration of the image of God in which man is created. The Rabbis felt that, before a human agency could take a life, there must be not the slightest doubt regarding the full culpability of the criminal. Since the imposition of a death penalty by the court would be a fully conscious and completely premeditated act, it would be exceeding the guilt of the criminal if any uncertainty prevailed regarding the conscious and willful character of the crime. A death sentence would, therefore, be a violation of the principle of equity implied in the doctrine of *middah keneged middah*, "measure for measure."<sup>26</sup>

Another striking, though less familiar, instance from the area of criminal law may be cited to illustrate how drastically the Halakhah limited the application of the death penalty. The book of Deuteronomy deals with the all-too-common phenomenon of a perjured witness falsely charging the accused with guilt:

If a man appears against another to testify maliciously and give false testimony against him . . . the magistrate shall make a thorough investigation. If the man who testified is a false witness, if he has testified falsely against his fellow man, you shall do to him as he schemed to do to his fellow. Thus you will sweep out evil from your midst. . . . Nor must you show pity: life for life, eye for eye, tooth for tooth, hand for hand, foot for foot.<sup>27</sup>

23. *Sifrei, Shofetim*, sec. 173; B. *Sanhedrin* 8b, "Warning was established to distinguish between wilful and accidental murder."

24. M. *Makkot* 1:10 — *huvlanit*.

25. Gen. 9:17, esp. vv. 4-6.

26. That the punishment must not exceed the crime is the meaning of the famous injunction, "An eye for an eye, a tooth for a tooth" (Ex. 21:23). While Rabbi Eliezer interpreted the verse literally, all of his colleagues overrode his view and interpreted it to mean *mammon*, "financial compensation for the injury" (B. *Baba Kamma* 84a), as the only way to make sure of fair retribution. Cf. the explanation in B. *Ketubbot* 38a: "An eye for an eye and not an eye and a life for an eye."

27. Deut. 19:16-21.

The Sadducees interpreted the passage literally to mean that if the false testimony had led to the actual execution of the innocent party, the false witness would suffer the same fate. On the other hand, the Pharisees, followed by the Tannaim, restricted the provisions of the law to one rare situation. They referred it only to the case where two witnesses (not one) had charged the accused with a crime and then two other witnesses had accused the original witnesses of lying by declaring: "You were with us at that time at another place, so that your testimony is false."<sup>28</sup> If the secondary witnesses were then discovered to be false, the Rabbis ruled, they fell under the provisions of the Biblical law. This was not all. The death penalty was to be meted out to the lying witnesses only if the execution of the original group of innocent witnesses had *not* been carried out. Had the primary witnesses already been executed, the lying secondary witnesses would not be killed. This latter ruling, which ran counter to the Sadducean practice, was derived by the Rabbis from the Biblical phrase, "You shall do to him as he had plotted to do to his neighbor" which they interpreted "as he had *schemed* to do, not as he had actually *done*."<sup>29</sup> Undoubtedly, false testimony in civil law suits and in criminal proceedings was rife in ancient times, though, one ventures to hope, less frequent than in our own day. Nevertheless, the Halakhah drastically limited the practice of judicial execution by imposing these two limitations.

The intent and the content of the Halakhah here should be clearly understood. We have discussed above the establishment by the Halakhah of the general principle of *hatra'ah*, "warning," as a prerequisite for conviction in capital cases. In these instances, the goal of the Halakhah may be construed as the desire to fulfill the inner intent of the Torah by proving the willful character of the crime beyond the shadow of a doubt. In the case of the Biblical provision regarding a perjured witness, the Halakhah goes beyond this purpose and radically restricts its application to a set of circumstances so rare and complicated as to be virtually non-existent. It is interpretation carried so far as to become legislation to all intents and purposes.

#### *Family Law and Personal Morality*

It is in the field of *family law* that the Halakhic process is more significant, and for two reasons. First, while much in ritual, civil and criminal law became inoperative after the destruction of the Temple, the Dispersion and the loss of Jewish autonomy, the Halakhah on marriage and the family has remained in force to our own day. Second, the thrust of Rabbinic law in this area sheds substantial light on the direction of the Halakhah with regard to the status of women.

28. *Atem heyitem immanu otto hayom bimekom peloni* (M. Mak. 1:4).

29. B. *Hullin* 11b; Rashi *ad loc.* The reasons advanced for this limitation are discussed by Barukh Halevi Epstein, *Torah Temimah*, on Deut. 19:19, note 73, who concludes, "The greatest of the Sages tried greatly to reduce the number of people executed by the court."

One of the most striking illustrations of the dynamic of Halakhah is to be observed in the institution of *yibbum*, "the levirate," which is one of the most widespread institutions in primitive and ancient societies the world over.<sup>30</sup> Originally, the duty to marry the childless widow of a dead brother (or another close relative) in order "to set up the name of the dead man upon his inheritance," was felt to be a solemn and inescapable obligation. Thus, in Genesis, when Judah refrains from giving his third son, Shelah, in marriage to Tamar in order to fulfill the levirate duty because his two older brothers, Er and Onan, had died, Tamar then takes the desperate step of dressing as a harlot and seducing Judah himself, in order to ensure her having progeny from her husband's family. Nevertheless, Judah's judgment upon her extreme action is that "she is more righteous than I."<sup>31</sup> In fact, her cohabitation with Judah is the starting point for the family line from which King David ultimately descends. Clearly the levirate is felt to be a solemn, fundamental obligation.

The law of the levirate is laid down in Deuteronomy, where the duty to marry a childless widow is still felt to be paramount. However, if the living brother is unwilling to do his duty, the law provides an "escape clause." The recalcitrant brother may avoid it by the rite of *halizah*, though a stigma attaches to him for his dereliction and his family thereafter is called "the family of the unsandaled one."<sup>32</sup>

In Rabbinic times, new factors entered the situation, so that *halizah* took precedence over *yibbum*. All the resources of Rabbinic hermeneutics were utilized to limit and, where possible, to prevent the consummation of the levirate,<sup>33</sup> and in post-Talmudic times, the practice shifted 180 degrees so that only *halizah* was permitted in Ashkenazi communities. *Yibbum* remained an option only in Muslim countries, where polygamy was not forbidden by Rabbi Gershom's *taqqanah*, to be discussed below. Thus, changes in social and cultural conditions, and probably also a higher degree of sensitivity to personal likes and dislikes,<sup>34</sup> led to a radical change in a basic marriage law in the Bible and the Talmud.

The dynamism of the Halakhah continued to function even in the Middle Ages. Most notable are the famous *taqqanot* of Rabbenu Gershom, "the Light of the Exile" and his Synod (adopted about the year 1000 C.E.). One *taqqanah* made it obligatory for a husband to obtain his wife's consent

30. Cf. *inter alios*, E. Westermarck, *The History of Human Marriage* (New York, 1923), Vol. 3, pp. 207-20; L.M. Epstein, *Marriage Laws in the Bible and the Talmud* (Cambridge, 1942); R. Gordis, "Love, Marriage and Business in the Book of Ruth, A Chapter in Hebrew Customary Law," reprinted in Gordis, *The Word and The Book* (New York, 1976), pp. 89-95.

31. Gen. 38:26.

32. Deut. 25:5-9.

33. For a conspectus, cf. Epstein, *Op. cit.*, vol. 5, pp. 384-404.

34. M. *Bekhorot* 1:7; "Yibbum took precedence over *halizah* in the past when men's intention was to fulfill the commandment. But now that they do not have the intention to fulfill the commandment (but are motivated by the woman's beauty or money), the Sages said that *halizah* takes precedence over *yibbum*." See the discussion in *Tosefta, Yebamot*, chap. 6; B. *Yebamot* 39b; P. *Yebamot* 13, 2.

for a divorce, a marked extension of women's rights beyond Talmudic practice.

The other ordinance of Rabbenu Gershom was the prohibition of polygamy.<sup>35</sup> This radical departure from both Biblical prototypes and Talmudic law needs additional analysis. It should be remembered that the *taqqanah* did not introduce a totally new practice into the Jewish community. Monogamy had been the prevailing practice in the Jewish people from its inception, if only because the biological ratio of the sexes, as well as economic considerations, made polygamy impossible for anyone except the royal dynasty and the aristocracy.<sup>36</sup> The Adam and Eve narrative in Genesis obviously pictures a monogamous family, as does the 128th Psalm, and other Biblical evidence is plentiful. No instance of polygamy is recorded among the 3000 Sages whose names occur in the pages of the Talmud. Nevertheless, the *taqqanah* of Rabbenu Gershom forbidding polygamy was valid only for Jews living in Christian countries.<sup>37</sup> In Islamic lands, polygamy was both lawful and operative until very recently.<sup>38</sup>

What explains the divergence? It would be fatuous to deny the impact of the Christian environment upon Rabbenu Gershom and his colleagues. They found it intolerable for Jews to maintain an attitude toward marriage — in theory, if not in practice — that set womankind on a lower ethical plane than that of their monogamous Christian neighbors.<sup>39</sup> For polygamy, it need hardly be pointed out, is clearly based on the inferiority of women, with the male being dominant and free to have more than one wife, but not the reverse. Today, of course, the original limitations of the *taqqanah* with regard to time and country have fallen away and monogamy is universally observed in Jewry. But the impact of cultural influences from without is clear both in Rabbi Gershom's *taqqanah* and in the limits of its operation.

Another situation reveals the responsiveness of the Halakhah even to conditions which it did not find to its liking because they stood on a far lower ethical level. In medieval Spain, as Jews acculturated to the dominant groups in society, some members of the upper classes imitated their Muslim prototypes by establishing liaisons with women outside of marriage.<sup>40</sup> We may be certain that none of the accredited Rabbinic lead-

35. See Rama on *Shulhan Arukh, Even Ha'ezer* 119:6.

36. The newly published Temple Scroll from the Qumranite sectaries forbids polygamy even to kings.

37. See *Shulhan Arukh, Even Ha'ezer* 1:10; Asheri, *Responsum* 42:1; Tashbetz, *Responsum* 94.

38. The State of Israel formally banned new polygamous marriages in the 1951 Keneset "Law on Equal Rights for Women."

39. As Rabbi David Aronson has acutely noted, this ruling is a clear application to contemporary conditions of the Talmudic dictum enunciated (B. *Sanh.* 58b) by *Raba: Mi ikka middei veyisra'el lo mehanyab venokhri mehanyab*, "Is there any act for which a Jew is free from guilt and a non-Jew guilty?" (David Aronson, "The Authority of the Halakhah and the Halakhah of Our Authority," *Proceedings of the Rabbinical Assembly*, vol. XL, 1979, pp. 42-56). [The quotation on p. 51 is not cited exactly.]

40. The subject and its relevance for an approach to contemporary sexual mores is discussed in R. Gordis, *Love and Sex: A Modern Jewish Perspective* (New York, 1978), pp. 167-68.

ership of Spain favored these extramarital arrangements and many of them translated their opposition into stringent prohibitions and anathemas pronounced against the practice. But the liaisons did not abate, even in the face of Rabbinic opposition, and a well-known authority on the history of sexual mores remarks:

In vain did the great Maimonides try to prohibit concubinage; not only did the practice continue, but most contemporary and later rabbinical authorities . . . accepted it. Acceptance, of course, did not mean approval.<sup>41</sup>

In the light of their inability to eliminate the practice through social and religious pressures, religious leaders sought to meet the situation by reviving the Biblical concept of the *pillegesh*, the "concubine". They were thereby conferring upon this status a measure of legitimacy. Thus, Nahmanides (1194-1270) declared that if the relationship with an unmarried woman was not temporary or promiscuous but, on the contrary, permanent and exclusive, it was permissible. Such leniency was, naturally, not accepted universally. Rabbi Isaac bar Sheshet Perfet (1326-1408), for instance, was far stricter.<sup>42</sup> He decried the popular saying, "An unmarried woman is not forbidden,"<sup>43</sup> but saw other and greater threats to traditional standards of personal morality in his time.<sup>44</sup> Apparently the practice was not prevalent in Ashkenazi Jewry, yet the great German authority, Rabbi Jacob Emden, adopted a very lenient view.<sup>45</sup>

Liaisons of the kind we have described ended with the tragic destruction of Spanish Jewry as a result of the Expulsion from Spain in 1492 and from Portugal in 1497. Thereafter, the earlier and stricter traditional standards became all but universal again, and there no longer was a need to find even quasi-legal basis for extra-marital relations.

### *The Ongoing Problem of the "Agunah"*

We may cite one more highly important instance in family law with direct relevance to modern life, the problem of the *agunah*, "the chained

41. Raphael Patai and Jennifer P. Wing, *The Myth of the Jewish Race* (New York, 1976), p. 131.

42. He cites Nahmanides' view in his *Responsa*, No. 6, 398. Nahmanides, in his correspondence with R. Jonah Gerondi, permits it (cited in *Zedah Laderekh*, III, 1, 2, 122b, "because there are many in this country who take concubines;" cf. also S. Halberstam, *K'vuzat Mikhtavim Be-inyanei Hamahloket al Dvar Sepher Hamoreh Vehamada*, (Bamberg, 1875; Haifa, 1969). See L.M. Epstein, *The Jewish Marriage Contract* (New York, 1927). On the etymology of *pillegesh* and the categories of concubinage in ancient times, see E. Neufeld, *Ancient Hebrew Marriage Laws* (London, 1944), pp. 123 ff.

43. The Hebrew phrase is *peloni pemayah muteret*.

44. *Responsum* 425; see also No. 6 and No. 398 on concubinage. Cf. A.M. Hershman, *Rabbi Isaac bar Sheshet Perfet and His Times* (New York, 1942), esp. pp. 143-5, and Yitzhak Baer, *A History of the Jews in Christian Spain* (Philadelphia, 1966), Vol. II, pp. 465-6; L.M. Epstein, "The Institution of Concubinage Among the Jews," *PAAJR*, 6, (1934-5): 153-88.

45. Cf. *She'elot Yavez* Part II, *Responsum* 15. He declares that it is his own view that "it is a *miẓvah* to proclaim publicly the permissibility of concubinage." But he does not wish to have any one rely on his own individual opinion. The motive for his eccentric opinion is the desire to increase the population of God's holy people. On this objective in the Halakhah generally, see sec. 4b-c.



wife." This tragedy, repeated times without number, was an inevitable consequence of the fact that the initiative for the issuance of a *get* was, according to the Rabbinic interpretation of Deuteronomy 24:1 ff., vested in the husband alone. Keenly aware of the inequality involved, the Halakhah took steps to reduce the power of the husband on the one hand and to extend the rights of the woman on the other. Two such instances may be mentioned. The principle, *kofin oto ad sheyomar rozeh ani*, "The court uses pressure upon the husband to issue a divorce until he says, 'I am willing,'" was invoked by the Rabbis in special cases. In the post-Talmudic period, a woman's consent was required for the husband's issuance of a divorce. Other modifications designed to bring relief to the *agunah* will be noted below.

The disparity of rights between the sexes was never eliminated, but some of the worst inequities could be mitigated. So long as the judicial system of the Rabbis operated under the aegis of the state, as in Babylonia, and its authority was universally recognized, the Halakhah was not helpless. It was possible to utilize various instruments, including the threat of imprisonment and excommunication, to bring a recalcitrant husband into line and have him issue a *get* when the marriage was dissolved.

The breakdown of the Babylonian center and its replacement by a multiplicity of independent communities led to a general fragmentation into many areas of local jurisdiction. The coercive power of Rabbinic law was now correspondingly reduced. The frequent uprooting of Jewish communities, the migrations and transplantations of individuals, accompanied by the deaths of countless individuals through natural disaster, famine or massacre, substantially increased the number of *agunot*. The medieval Rabbis partially met the challenge by a variety of changes in the law designed to free as many *agunot* as possible from the chain of perpetual widowhood.

Then came the modern period, marked by the Enlightenment and the Emancipation, which wrought havoc with the traditional pattern of Jewish life. The admission of Jews into political citizenship, civic equality and economic opportunity was directly and explicitly linked to the erosion of the authority of Jewish law and to the breakdown of the traditional Jewish communities in Central and Eastern Europe. The rapid growth of secularism was accompanied by the migration of millions of individuals from one country to another. The establishment of civil marriage and divorce in nearly all Western countries gave rise to a tremendous increase in the number of *agunot*. Women loyal to the Halakhah were at the mercy of unscrupulous, greedy or vindictive husbands, who had secured a civil divorce and now refused to grant a *get* or had disappeared, leaving their wives perpetual widows. By and large, the Orthodox rabbinate declared itself powerless to deal with the problems.

At the outbreak of the Russo-Japanese War (1903), when many Jewish young men in Russia were called to fight in the Czar's army and

there loomed the tragic possibility of their being lost and missing in action, Rabbi Isaac Elhanan of Kovno visited the troops before they left for the front and urged Jewish soldiers to issue a *get* <sup>46</sup>*al tnai*, a conditional divorce, so as to free their wives from the status of *agunah* should the husbands not return.

This procedure was clearly helpful in individual cases, but it did not meet the problem of the husband who deserted his wife in peace-time or received a civil divorce and refused to issue a *get*. Rabbi Louis M. Epstein, of Boston, after years of study of the entire question, proposed a plan whereby a groom, before his marriage, would designate specified individuals to serve as his agents for the issuance of a *get* (*minnui shelihut*) if, at some future date (a) a civil divorce were to be issued, (b) the husband were to disappear, or (c) he were to be lost in an accident or in military action.

Subjected to a barrage of misrepresentation and proving unwieldy in operation, the Epstein plan, after being put into practice in many cases by the Rabbinical Assembly, fell into disuse. But the principle of an active concern for the *agunah* and a determination to act on her behalf persisted, and a new procedure was worked out by the eminent Rabbinic authority, Professor Saul Lieberman. It consists of a codicil added to the traditional marriage contract in which husband and wife solemnly agree to abide by the provisions of Jewish law. The theory is that this commitment includes the issuance of a *get*, should that become necessary in the future. If the husband then fails to honor his promise, the civil court could be asked to enforce performance of the contract. There has thus far been no test of the Lieberman *ketubah* in the secular courts.

The Rabbinical Assembly has since decided to utilize another resource of the traditional Halakhah for dealing with the problem, by putting into practice provisions for conditional marriage and divorce already existing in the Talmud. "Whoever contracts a Jewish marriage does so under the authority of the Rabbis,"<sup>46</sup> is not merely an abstract principle. It is applied by the Talmudic and post-Talmudic authorities to annul a marriage when circumstances require it. In the words of the Talmud, "The Rabbis retroactively break the husband's marital contract."<sup>47</sup> Even the presence of children born to the couple does not prevent the application of this principle, since their legitimate status in Judaism is not impugned by the annulment.

The instances we have adduced from the areas of ritual enactment, civil and criminal law, marriage, family morality and divorce are by no means exhaustive, but they should suffice to demonstrate the validity of the principles governing the Halakhah set forth in the first section of this paper. They also perform a second, equally significant, highly relevant function. *In all aspects of Jewish law, the Halakhah reveals a deep concern for*

46. B. *Ketubbot* 3a, *Kol hammekaddesh 'ada'ata derabbanan mekaddesh.*

47. *Ibid.*, *Afke 'inhu rabbanan lekiddushei minneh.*

*basic ethical considerations, whether age-old or newly arrived at. In all periods, the Halakhah manifests its lively awareness of social, economic, political and cultural factors in the life of the Jewish community.*

### *Strengthening Jewish Survival*

Another powerful motive in the dynamic of the Halakhah, closely related to the Rabbis' ethical concerns, is *the survival of the Jewish people*. During the period of the Mishnah and the Gemara, they wrestled with the need to preserve the integrity and the viability of the Jewish community in Palestine. It was by no means an easy task, in view of the heavy taxation and other forms of oppression practiced by the Roman power. As a result, Jews were increasingly tempted to leave the land of Israel for more favorable centers of settlement elsewhere, — Babylonia, Egypt and the Mediterranean littoral. The Pharisees, and the Rabbis after them, sought time and again to stem this flight by enacting a *gezerah*, "a restrictive decree," declaring territory outside the land of Israel "unclean" and by the adoption of other regulations.<sup>48</sup> However, their efficacy was probably limited in duration.

It was not easy for the Jewish farmer to maintain his precarious foothold in the Holy Land. In addition to the various "gifts due to the priesthood," he was obligated to let his land lie fallow each seventh year. This problem the Rabbis sought to meet by establishing the principle which, they declared, emanated from the Men of the Great Assembly, that "the land conquered by Joshua after the Exodus (*kedushah rishonah*) became holy only temporarily (while Jews lived on it), but not for the future. Only the land acquired after the Return from the Babylonian Exile (*kedushah sheniyah*) acquired a permanent sanctity."<sup>49</sup> Since the second Jewish settlement was much smaller in extent than the first, it meant that considerable portions of the country were freed from these special burdens. Measures such as these undoubtedly helped to prolong the existence of a Jewish presence in Palestine.

Ultimately, however, the bulk of world Jewry was to be found outside the land of Israel, in Asia, North Africa and Europe. Now Jewish survival became a desperate battle against heavy odds. Persecution, spoliation, expulsion and massacre made great inroads into the Jewish population. The perennial physical hazards of disease and malnutrition also decimated the ranks of the children, as well as their elders.

Faced by these perils, medieval Jewry saw its preservation dependent on a *high birth rate*, without restriction or qualification. The imperious demand for group survival made no allowance for individual desires or family welfare. Only through children and more children could the Jew hope to overcome the tragically high mortality rate. Thus, the instinctive

48. See B. *Shabbat* 14b and parallels, and see the detailed studies of Solomon Zeitlin.

49. B. *Hag.* 3b; see also B. *Yeb.* 92b on "three inheritances" and Rashi *ad loc.*

wish for progeny was intensified by overpowering religio-national motives. Hence, the view of the Halakhah that the birth of two children fulfills the requirements of the law<sup>50</sup> was ignored and parents were encouraged to bring as many children into the world as possible.

A classical passage in the Talmud, repeated six times, permitted (or commanded) three categories of women — a minor, a pregnant woman and a nursing mother — to use an absorbent to prevent a new conception.<sup>51</sup> The passage was now interpreted narrowly, in defiance of linguistic usage, to mean that only one Sage, Rabbi Meir, permitted the practice and only for a child wife, while all his colleagues prohibited it for all three categories.<sup>52</sup>

Moreover, this basic Talmudic passage permitting (or prescribing) birth control was totally ignored and passed over in silence in the medieval codes. It is not referred to in the *Mishneh Torah* of Maimonides or in the authoritative *Shulhan Arukh* of Rabbi Joseph Karo. A distinguished modern Orthodox scholar writes that “the codes, *rather surprisingly*, omit any direct reference to contraception altogether.”<sup>53</sup>

The same motivation came into play on a related subject. The Talmud frequently voices strong objections to the *marriage of young children*.<sup>54</sup> The medieval authorities ignored these objections and urged that marriage engagements be entered into whenever practicable at any age. They justified their action by calling attention to the rigors of the exile, which included the perpetual threat of physical attack and economic insecurity.<sup>55</sup>

The ongoing threat to Jewish spiritual integrity, stemming from close contacts with pagans, was also a source of perpetual concern. Among the eighteen *gezerot* which the school of Shammai succeeded in adopting over the objections of the school of Hillel, before the destruction of the Second Temple, was a prohibition forbidding the bread, the oil, the wine and the daughters of pagans to Jews.<sup>56</sup>

### *The Role of the Popular Will*

Another factor closely related to the preceding motive of advancing Jewish survival is *the responsiveness of the Halakhah to the popular will*, meeting the desires of the common people. Whenever a particular practice did

50. Mishnah Yeb. 6:6; *Shulhan Arukh*, *Yoreh Deah* 1:5.

51. See B. Yeb. 12b, 100b; *Ketubbot* 39a; B. *Nedarim* 35a; B. *Niddah* 45a; *Tos. Yeb.* 2:6.

52. See the analysis of the text in R. Gordis, *Love and Sex: A Modern Jewish Perspective* (New York, 1978), pp. 266 f., note 12.

53. I. Jakobovitz, *Jewish Medical Ethics* (New York, 1959), p. 169 (italics ours).

54. Cf. B. *Kiddushin* 41a; B. *Niddah* 13a.

55. On the difficulties involved in harmonizing the Talmudic objections to child marriages and the medieval practice, see D.M. Feldman, *Birth Control in Jewish Law* (New York, 1968), pp. 176-80.

56. On “the Eighteen Decrees” designed to restrict intercourse between Jews and pagans, see P. *Shabbat* 1, 7, 3c; B. *Shabbat* 13b, 17b.

not contravene an important religious or ethical norm and enjoyed wide support, the exemplars of Halakhah yielded to the general will with greater or lesser grace, as the case might be.

When the people followed a practice on *Pesah* that seemed to contradict the law, Rabbi Johanan declared, "Do not interfere with Israel. If they are not prophets, they are the descendants of prophets."<sup>57</sup> He proceeded to explain that the populace was really following a law which he had forgotten. Again and again Rabbis seeking to establish the proper practice invoked the principle, "Go out and see how the people conduct themselves."<sup>58</sup>

The Middle Ages offer a striking instance of how the popular will overrode the accepted Halakhah of the past. Not only did the people create the festival of *Simhat Torah* without the support, and often in the face of opposition, from the recognized Halakhic authorities; they insisted upon introducing into the observance of the festival, both in the synagogue and without, practices at variance with the Halakhah.<sup>59</sup>

In modern America, the introduction of family pews, not merely in Reform congregations but also in Conservative ones, is an illustration of the triumph of the popular will. With the exception of ultra-right wing Orthodox and Hasidic synagogues, Orthodoxy in American has also yielded on this point, with such devices as separate sections for men and women, token *mehizot*, or raising the women's section three or four inches. Conservative leadership has never "sanctioned" mixed pews; they are an expression of the popular will which has been allowed to prevail because the leadership recognized important social and ethical values in the practice and no contravention of any vital religious principle.

The far-flung evidence of the responsiveness of the Halakhah to the world, a fraction of which has been adduced above, leads inescapably to one conclusion: *The notion that the Halakhah and "sociology" are antagonists that are in perpetual confrontation with each other and must be kept at arm's length from each other is a major error. "Sociology" is not extraneous to Halakhah – it is an integral element in it.*

To be sure, at any particular moment, the law, which embodies the received tradition and practice of the past, will be in tension with conditions and insights of the present. But it is their interaction that produces the body of tradition to be transmitted to the future. This process has created the dialectic of Halakhah in the past and is the secret of its vitality for the present and the future.\*

57. B. *Pesahim* 66b.

58. B. *Ber.* 45a; B. *Eruv.* 14b and often.

59. See "Simhat Torah — The Triumph of the Democratic Spirit" in R. Gordis, *Judaism For the Modern Age* (New York, 1955), pp. 195-203, for the original Halakhah, for the final day of the Festival, for the objections of the Rabbinate to the newly introduced practices on Simhat Torah, and their ultimate yielding to the popular will.

\* The author expresses his thanks to his former student, Rabbi Ben Scolnic, for his assistance in checking the references and researching the sources cited in this paper.



# *Among Two Hundred Survivors From Auschwitz*

RAGNAR KVAM

*Translated by Otto Reinert*

I RECENTLY SAT AMONG SOME CONCERNED people my own age on a hard bench in a small, dilapidated house not far from the shore in Tel Aviv-Jaffa. There were about two hundred of us. We were between fifty and sixty years old. Some were quite a bit older and some only a little older. The difference between the others and me was considerable: the two hundred were all survivors from Auschwitz. I experienced only the concentration camp at Grini [outside Oslo] during the last phase of World War II. But it was at Grini that I decided that the war would have at least one fortunate result: when it was over, nobody would ever hate the Jews any more; anti-Semitism would be dead once and for all.

It was a strange experience, that Tel Aviv-Jaffa symposium. It reminded me that just over a year before I had been seated on a similar bench, just as hard, in Vesterolen [a group of northern Norwegian islands, north of the Arctic Circle]. Sortland county court was hearing the case against a high school teacher, Olav Hoaas, in the county assembly hall.

In Sortland I once again lived through the worst part of WWII, this time directly. In his solo performance as his own defense counsel the teacher put on an act that can be compared only to similar one-man shows in pure Nazi style. The most frightening thing about Hoaas, who has a degree in history from a Norwegian university, was the fact that not for a single moment did it appear that he really believed what he was saying. To most of us — those on the benches — it seemed as if for two hours he didn't say one thing that he thought was true. He was, as we say, "speaking in bad faith." Such lying is barely tolerable in an election campaign. Surely

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RAGNAR KVAM, a Norwegian journalist and freelance writer now living in Denmark, fought in Norway during the German invasion in the spring of 1940. Later, he was arrested by the Nazis as a member of the Resistance movement and ended the war in a camp outside of Oslo. As a reporter, he covered the end of the Exodus episode in Hamburg in 1947. In 1948 he became one of the co-founders of the Israel-Norway Association and was, for many years, its president. He has visited Israel often, most recently in 1977 as the guest of the city of Jerusalem. The article which follows appeared originally in *Samtiden*, a Norwegian journal, and is partially derived from an experience on that visit.

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none of us would have expected a Norwegian history teacher, who was not a certified lunatic, to put on that kind of performance. I shall never forget it.

Someone else at Sortland whom I'll never forget was Leo Eitingер. He, too, survived Auschwitz — just like my friends in that dilapidated house in Tel Aviv-Jaffa. Today he is a well-known psychiatrist in Norway. His testimony struck me then — and still does — as a model of moderation. Face to face with Eitingер the history teacher from northern Norway seemed a miserable creature; I felt genuinely sorry for him. Who was this Hoaas — this twisted individual?

Throughout the trial, Hoaas denied everything Eitingер said — often waving in the air a book with a big, black swastika in white on the cover. Only once did Eitingер lose his patience. It was the most dramatic moment during the whole Hoaas trial. To the face of the Auschwitz survivor, the historian with a university degree virtually spat out the words, "You're lying!" Eitingер's hand hit the table. And for the first and only time he raised his voice: "I was there. You weren't." There was a long, deadly silence in the courtroom.

There has been a debate in this country as to whether we didn't perhaps make too much fuss over Hoaas. We have asked ourselves if it wouldn't have been better had we simply ignored him into oblivion. I can't give a definite answer to that. Or at least, not so far as Hoaas is concerned. But in Tel Aviv-Jaffa I realized, for the first time after the war, how infected with Nazism our world has become. One of the main reasons, according to an old Polish immigrant, is that the part of the world that has the nerve to call itself Marxist-Leninist — but which is actually Stalinist — calls all the rest of us Fascists and Nazis the minute we fail to dance to their tune. What we fail to understand is that these people have made such a hash of political propaganda that the word "Nazi" no longer seems as terrible as it used to. Neo-Nazism is about to become fashionable, said the old man from Lodz. And I thought of the British author I corresponded with for a short time, Colin Wilson, of *Outsider* fame. When British neo-Nazis recently published a pamphlet that said that the Jews *themselves* had made up the story of the gas chambers, Wilson declared that the pamphlet was "interesting" and "deserved to be read." It is a frightening document in more than one sense. And the worst thing about it is that the editors are referred to as "professors," although not a single British historian has heard of them.

The Auschwitz survivors gathered by the shore of Tel Aviv-Jaffa said — in voices that were never excited and, compared to the vocal power in some other Israeli assemblies, always low — that they felt it was their duty to remind the world of Auschwitz. They were right, for the world is beginning to forget Auschwitz. One speaker said that anti-Semitism in Poland is just as strong as before the war. The Poles, he said, have learned nothing from the death of six million. Neo-Nazis can't hope for a more useful ally than this growing silence concerning the fate of the Polish Jews

during the last war. Neither can the new Left, for whom an important goal is the destruction of the state of Israel. Let me remind you that the so-called pacifist publishing house Pax, here in Norway, in one of its recent socialist yearbooks, includes a map of the Mideast that does not show Israel.

No doubt about it: neo-Nazism is in. It's being supported by new books that try to acquit Hitler (of all people) of any kind of responsibility for the killing of the Jews. Historians of this school get their strongest support from those neo-Nazis who, though they know better, keep saying that there *were* no such things as gas chambers. Not only does nothing happen to these people, but there is also formidable support of neo-Nazism in a spreading cult of Hitler memorabilia. In Britain we get swastikas, front and back, on teen-age tee-shirts and jeans. In Germany there are near-riots at auctions where phony Hitler souvenirs are snapped up by avid collectors. There are thousands and thousands of swastikas from the sleeves of Hitler's jacket — a comparison to the splinters from Christ's cross does not seem inept. Single exhibition halls can no longer accommodate the accumulating Hitleriana. Europe is deluged with the stuff.

The neo-Nazis have other allies, too — real historians like Joachim Fest. I didn't find one original item in his biography of Hitler — nothing that isn't in Alan Bullock's biography published quite a few years ago. Like many American historians, Fest systematically underplays the crucial point in Nazi ideology that so many others also want to erase: the "pure race theory" that manifested itself in anti-Semitism. It was whenever Hoas, at his trial, mentioned "racial purity" that his manner became as maniacal as the ideas of the vulgar nineteenth-century biologists who, without a shred of scientific evidence, declared, to Hitler's great joy, that the Jews were polluters of the German, the Nordic, the Aryan "blood." No more hideous myth was ever propagated, but I had never realized its total madness until I listened to Hoas's ravings in Sortland.

At Tel Aviv-Jaffa I listened to a quieter but equally disturbing voice. Erich Kulka, from the Research Center at Yad Vashem, asked all the survivors for help against neo-Nazism. He told us that an American publication, *The Myth of the Six Millions*, published by a Hollywood organization called — believe it or not — the Christian Crusade, is the source of the pamphlet that Colin Wilson thinks we ought to read. Its title is *Did Six Million Really Die?* It was published in London in 1972 and has appeared in large editions and in many languages throughout the world. Its author calls himself Harwood and an historian. According to him, the Nazis of Hitler Germany are the victims of a "fiendish Jewish conspiracy." The main points of his pamphlet are:

1. The extermination of six million Jews is pure fantasy.
2. Hitler never ordered the extermination of the Jews.
3. The story of the killing of the six millions has been concocted by the Zionists in order to raise money for Israel.

## 4. Auschwitz was just an ordinary work camp.

Colin Wilson finds all of this reasonable and logical. And another well-known British author, Honor Tracy, has announced that any effort to suppress these re-evaluations (her word) of the German concentration camps would be “alarming.” Soon after the appearance of *Did Six Million Really Die?*, the British neo-Nazi movement, The National Front, published another pamphlet of the same nature, *Britain Awake*. (The authors tried to conceal their National Front connection, but it has long been disclosed.) The National Front has found important inspiration in the writings of the late Frenchman, Paul Rassinier, a teacher who came straight out of the anti-Semitic French tradition that culminated in the Dreyfus affair and is not much diminished today. Anti-Semitism and neo-Nazism are pieces from the same cloth. Its reach is world-wide.

Kulka's hands trembled as he turned over his pages and told us about the international nature of current neo-Nazism. (Beside me sat one of the thirteen who escaped from Treblinka. I didn't need to ask him about that place. I once translated a long French book about it.) Much of Kulka's evidence was submitted to the district attorney in Sortland at Hoaas's trial — Hoaas, that blood-intoxicated high school teacher who first denied that Jews were systematically killed during the war and then argued that it might be necessary to kill them at some time in the future.

Nowadays, the most popular anti-Semitic publication in Germany is *Die Auschwitz Lüge* (The Auschwitz Lie), considered one of the most important of the militant propaganda publications of neo-Nazism. But that the fight against it is not hopeless is proved by the Austrian Comité Internationale des Camps. On the Committee's instigation, the Austrian government was moved to ban the sale of *Die Auschwitz-Lüge*, on the grounds that it was one big lie — from one end to the other.

Only a tiny part of the enormous evidence against the Nazis was presented and examined in Sortland and in Tel Aviv-Jaffa. Yet one thing becomes clear: both the Sortland county court and the tribunal in the Israeli capital worked with the same documented testimonies and in full recognition of the fact that people like Hoaas (who calls himself a “historian”) and his colleagues all over the world virtually all realize that what they are saying is one of the biggest lies of our time, and that they are telling that lie for a political purpose: death to the Jews and a resurrection of the Nazi movement. The Norwegian high school teacher is a good example of the monstrous contradiction inherent in the whole campaign. On the one hand we are invited to a new round of the Nazi fight against the Jews in the name of racial purity; on the other hand we are told that Hitler and his people never touched a hair on a Jewish head. Those who tell us these things know better.

And this is the whole point of neo-Nazism. Its party line almost never varies. For the new men of violence have learned from Hitler that the

most effective means of propaganda is a monomaniacal assertion of the Big Lie — until it becomes the truth. For no one, surely, is going to convince any of us that a teacher with a degree in history from a Norwegian university and, therefore, aware of what responsible scholarship and objective examination of sources and evidence is all about, can, in good faith, ignore every relevant piece of documentary evidence and, instead, base his assertions on publications that every decent scholar knows are a pack of lies from beginning to end.

The pamphlet, *Die Auschwitz-Lüge*, must be one of the ugliest examples in our time of the manner in which what happened to the Jews during WW II is so completely turned upside down that Nazis appear in angels' wings and the Jews as filthy moneygrubbers. The more corpses, the more money for Israel — that is the propaganda piece *par excellence* in the new neo-Nazi publications. The lie about Auschwitz has been published by a lawyer named Manfred Rödner, who calls himself the "leader" of the German Citizens' Initiative.

A main point of the pamphlet is that Hitler did not order the extermination of the Jews. Some modern historians have stared themselves blind at that point, and total blankness of memory is the means they use to befool the Wannsee Conference. The conference was a gathering of high German officials, plus a few *gauleiter* led by Reinhardt and Eichmann, who decided (before a luncheon to which everyone was invited) to make an end of — and this is according to Eichmann's own testimony — not six but eleven million Jews. According to the statistics at the time, that was the number of Jews living in Europe in 1942, including the so-called European part of the Soviet Union. We know now that the capacity of the gas chambers wasn't equal to eleven million, and there were countries like England to which the Nazis never came. That is why the total at the end was only *six* million.

The Wannsee agreement — signed by all the *Herren* present — tells all about this conference, which Göring, on orders from Hitler, told Reichardt to organize. At the same time Hitler told Himmler that everything in connection with "the final solution" of what the administrators, officials, and *gauleiter* referred to as "the Jewish question" must be kept secret at all cost. That is why the Wannsee agreement is full of euphemisms, pretty circumlocutions, like "resettlement," for crimes that everyone had already agreed on and the meaning of which everyone perfectly realized.

Eichmann's report is easily available. Some of our best-selling historians have found reasons for ignoring it, even though it is clear that from the time of the Wannsee conference — one of the most infamous dates in all history — Himmler had only two things on his mind: exterminating the Jews and keeping the extermination secret.

But our younger historians don't immerse themselves in this Hitlerian-Himmlerian atmosphere of genocide. Or many of them don't.

They are people who have not lived through WW II, new “scholars,” who believe that the science of history ought to operate on a pendulum principle. They object to the historians who *did* experience WW II as partisans whose bias reduces what they say to insignificance. But they forget that facts don’t go away. All over the world there are mountains of documents about the Holocaust — the Jewish word for the massacre. “Holocaust” means “burnt offering,” but that is not the sense in which the Jews use the word. For them it means *the great catastrophe*.

In Germany, West and East, here in Norway, even in Israel, I have sometimes referred to “Wannsee 1942.” Most of the time I just draw a blank look. No one under fifty associates anything at all with this phrase — and not many people *over* fifty, either — except older historians and a few survivors of Auschwitz, like the two hundred people in the old, dilapidated building near the Tel Aviv-Jaffa shore.

The author of *Die Auschwitz-Lüge* is Thies Christophersen. He served as a high ranking Wehrmacht officer on the Eastern front, was wounded, and was therefore given work of a more civilian nature. He was sent to Raisko, a branch of Auschwitz, where privileged prisoners were saved from the gas chamber. It is on the basis of this quite isolated experience that the author of the pamphlet tells today’s Germans that no Jew was either tortured or killed in Auschwitz. Quite the opposite: they received excellent treatment, were given tasty and nourishing food, and so on and so on.

“An idyll” is Christophersen’s main descriptive term for the camp where more than three million people, including a million small children and youth, were exterminated without mercy. The pamphlet has appeared in huge printings and has been handsomely reviewed in neo-Nazi newspapers like the *Nationale Zeitung* and others. On German TV I have seen young people with shining eyes swear to their faith in the Christophersenian idyll. Here again self-contradiction is the most revealing aspect of the whole neo-Nazi physiognomy. For does it make any sense that the Nazis would have let the Jews, whom they hated, lead a life in health and comfort while the whole rest of the German nation had to fight for its life to keep the enemy out of the country? The naivete is so obviously deliberate that our high school teacher and his fellow believers, including lawyers and others with the highest education their country offers, can only be regarded as willful liars attempting to re-establish the Nazi hell-on-earth.

One reason that the neo-Nazi movement prospers as it does in the *Bundersrepublik* — for in the DDR anti-Semitism takes the form of anti-Zionism directed against the state of Israel — is the government’s lenience toward everything the Hitlerites are doing. On Whitsun night last year, some elderly SS fellows celebrated some kind of anniversary in a small town on the river Lahn. The celebration was held in the city hall. A crowd of people gathered in front. The town teachers organized a protest march



against the SS party inside. The crowd did not join the protesters. It attacked them and chased them out of the town square — ably assisted by the local police, who had been called out to keep people like the demonstrating teachers away. The crowd yelled at the teachers, calling them communists. Some screamed that they were goddamn Jew-lovers and red punks. My information comes from the German and the Swedish press.

As I write this, other voices in West Germany join the neo-Nazis in calling for a revision of the whole Nuremberg trial. There are so many dangerous testimonies from that trial that it has become necessary to denounce every single one of them as a lie. This attack on the Nuremberg trial follows earlier attacks on the courts — attacks that have led to the pardoning of hundreds of war criminals shortly after their terms began, and sometimes even before they had applied for parole.

A blatant example is a book published by a prominent SS officer just two years after Nuremberg, *Mit Goebbels bis zum Ende* (With Goebbels to the End). Despite the fact that Goebbels himself constantly speaks in his diaries of the need for exterminating the Jews, this gentleman writes that there were no gas chambers and there was no murdering of Jews. The book has just been reissued in a new printing, which is selling very well in the *Bundesrepublik*. It, too, serves the German Civil Rights Association and the British National Front as “source material.”

During the Nuremberg trials in 1946, Hans Frank, one of the most prominent representatives of the so-called Third Reich, who had been Governor-General of occupied Poland, said about the mass murder of the Jews: “A thousand years will pass without erasing the German people’s guilt.” Only thirty years have passed, and our world is already full of people who are busy trying to bury the German war crimes — or, rather, the Nazi bestialities, for we know today that many, very many, Germans spent the Hitler years in a state of shock. The neo-Nazis know there is profit in Hitler’s doctrine about concerted and singleminded persecution of the Jews. That is why they seek to exonerate Hitler and to blame the Jews for everything.

Are the German neo-Nazis dangerous? Is the British National Front significant?

On a premise that implies, to the best of my judgment, a misconceived notion of objectivity, many current commentators ask these questions. To me, what such people forget — either consciously or unconsciously — is what no living Jew is able to forget: that these were the questions people asked themselves when the Nazi reign of terror began on January 30, 1933.

Among historians, the rehabilitation of Hitler started with Fest’s widely read and vastly overpraised biography. I don’t mean that Fest tries to conceal the facts of “the final solution.” He doesn’t, but he tries to trivialize it by concerning himself almost exclusively with other sides of Hitler, even though the doctrine of race is the heart of Hitler’s ideology. It

is obvious that Fest is trying to make room for Hitler in a comprehensive view of the dynamics of German history. His movie biography of Hitler re-inforces that impression. Fest doesn't quite try to make Hitler appear respectable, but he is making gestures in that direction. When, in what looks like a deliberate attempt to be provocative, he raises the issue of Hitler's "historical greatness," it is time to call a halt. I know exactly what his point is and why he thinks it is important: he wants the youth of Germany today to see Hitler the way German youth of the Nazi era saw him. That is all very well — as long as he shows Hitler full size. But that is not what the Fest movie does — a movie now playing to sold-out houses all over Germany. Its Hitler is the by now legendary hand-shaking, popular demagogue that emerges from a collage of contemporary newsreels and bits of party documentaries. Anyone watching the film in a German theater will recognize in the audience response the same kind of infectious enthusiasm that the great Swedish poetess, Karin Boye, felt when she attended the Berlin Olympics not long after Hitler's take-over. "*Fest für Hitler*" [a pun on the author/movie-maker's name, which means 'feast' in German] was the headline in a great German newspaper after the opening night of the movie. The sardonic pun catches an intention which, one assumes, the historian in Fest would strenuously deny.

Other western historians tend to minimize the whole Nazi episode to the point where the extermination of the Jews just about disappears from view. The tendency is most apparent in the work of one of the leading western historians of today, Geoffrey Barraclough. He goes so far as to maintain that most of the western democracies before the war accepted the Nazi ideology concerning the Jews. Needless to say, there are other historians who take a different view — like Professor Saul Friedländer, of Geneva and Tel Aviv.

Still another group of writers are the surviving bigwigs of the Nazi regime. It is enough to mention Albert Speer. He has virtually nothing to say about Auschwitz or any of the other gas chamber camps. In his circles it is decidedly not good manners to talk about the greatest crime in all of world history. The reason is clear. Speer is writing bestsellers, and his readers are, first of all, the so-called educated and cultured Germans. They don't want to be reminded of Auschwitz. They don't mind being shown Hitler's other faults, but they want to be spared the story of the Jews. This is the line enthusiastically pursued by the young British historian, David Irving, in his voluminous *Hitler's War*. Here Hitler has sprouted full-fledged angels' wings. According to Irving, he never issued a single order for the killing of Jews. Speer, at least, admits that he had heard rumors that Hitler knew something. But there are hundreds of documents extant that unequivocally point to Hitler as the chief originator of the mass murder of the Jews.

Speer set the tone. As a German nobleman, he felt himself far superior to the vulgar anti-Semitism of certain groups. That is why the

whole “Jewish question” barely receives a passing, over-the-shoulder glance from the distinguished Count.

Commonly, in these revisionist works of history, the Jews themselves are blamed for what happened to them. A certain Franz J. Scheidl — equipped with no less than three doctoral degrees — has written seven volumes (so far) with the collective title, *Geschichte der Verfremdung Deutschlands* (History of the Estrangement of Germany), in which he declared that if any Jews died in the concentration camps, it was other Jews who were responsible.

Perhaps the most rabid Jew-baiter of the post-war period is the recently deceased Frenchman Paul Rassinier, who, at the Sortland trial, was given the sham title of professor. He concedes, in his several works, that there may have been a gas chamber or two in some of the camps, but *they were used only for disinfecting clothes; the Germans, as all the world knows, are a nation dedicated to cleanliness*. If, near the end of the war, a few Jews were gassed, that was because of personal persecution by a handful of “psychotic” SS men. Rassinier and the American professor, Arthur R. Butz, the author of *The Hoax of the Century* (i.e., the mass killings of Jews by the Nazis), were the authorities invoked most frequently and most ardently by teacher Hoaas in Sortland.

In the wake of the books by Rassinier and Butz has appeared an endless flow of pamphlet and diatribes directed against the Jews and published by the most obscure publishing houses. These publications still clamor for the elimination of all Jews, even as they vehemently deny that this was ever Hitler’s intention or that his lackies even went about trying to implement it.

Does anyone believe these sewer publications? People like Hoaas certainly don’t — unless they have suppressed every decent impulse in themselves and choose to live in some kind of visionary Wagnerian trance. But we have learned that this kind of wholesale, deliberate lying can — like *Mein Kampf* — affect people’s thinking more insidiously than works of responsible scholarship that reject the whole concept of racism as unscientific.

Perhaps we all ought to follow the example of the Israeli ambassador to the UN, Chaim Herzog, who, on several occasions has walked out on meetings both of the General Assembly and of the Security Council when someone like Jamil Baroodi holds forth. For Herzog, the only way to respond to someone like Baroodi is to ignore him. Of Baroodi there is just this to say: he turns up, as he did on March 24 and 25, 1976, armed with piles of Nazi propaganda pamphlets, which he cites indiscriminately: There were no gas chambers. Hitler was innocent. Anne Frank’s Diary is a hoax. The six million dead Jews is a Jewish fiction, etc., etc. Any one of these assertions should suffice for having the speaker ruled out of order, but there were not even any protests — only Herzog’s walk-out and the complete transcripts in the UN records. Other nations than Israel should

have objected. For all this about Hitler's innocence does not further peace in the Middle East. Baroody's effusions only prove that the UN has become a world forum where anyone can say anything that he likes at any time.

Perhaps the Israeli representatives in the UN are wise in ignoring this kind of thing, but the rest of us must not. We must recognize it as part of a gathering of forces around the world, whose ultimate goal is — and let there be no doubt about it — the destruction of both the state of Israel and the Jews of the Diaspora. The fact that these groups still constitute only a minority must not make us forget that Hitler almost achieved that goal — only thirty years ago.

In all justice I should add that the British delegate, Ivor Richard, at a later meeting of the Security Council, criticized Baroody's harangue. He did so at the request of the Dutch delegation, because the Netherlands at that time had no representative in the Council. Braving a storm of anti-Zionist obscenities and name-calling from the benches in the Council chamber, Richard said that there are few events in world history that are better documented than the Nazi mass killing of the Jews.

# *The Disturbing Case of Feodor Fedorenko*

MATTHEW RINALDI

ON JULY 25, 1978, THE SOUTHERN DISTRICT Court of Florida ruled that a former member of the Ukrainian SS, now living in Miami Beach, was entitled to keep his United States citizenship. The ruling came despite the admission by defendant Feodor Fedorenko that he had served as an armed guard at Treblinka, one of the primary Nazi killing centers in Poland.

Fedorenko has been living in this country since 1949. At the trial, he admitted that, during World War II, he had been trained as an SS *Wachmann* (guard), that, as part of his training, he had assisted German operations in the ghettos of Lublin and Warsaw and, that, upon completion of training, he had been assigned to Treblinka. At Treblinka he became an *Oberwachmann* and on "one or two occasions," at the very least, had helped to detrain Jewish prisoners on their way to the gas chambers. He had neglected to mention these facts when applying for immigration in 1949, and upon receiving citizenship in 1970.

Six survivors of Treblinka, all of them Israelis, came to Fort Lauderdale to testify against Fedorenko. It is difficult to find such witnesses. There were very few survivors of Treblinka; there were meant to be none. Of the estimated 700,000 to 1,200,000 Jews who had been sent to Treblinka in 1942 and 1943, only 40 were still alive at the end of the war. The six Israeli survivors had each spent between six months and a year in the camp before managing to escape. Some of them had already testified at the trials of Treblinka personnel in Düsseldorf, West Germany, in 1965 and 1970.

In Florida, these survivors retold their stories. Gustaw Boraks, age 77, testified that he "had seen defendant chasing people on the pathway to Camp 2;" Camp 2 was the site of the gas chambers. Schalom Kohn, age 65, told of being whipped by the defendant on two separate occasions. And Eugen Turowski, age 64, testified that Fedorenko "carried a leather whip with metal balls on it" and "many times" beat and shot arriving prisoners. Turowski went on to say that Fedorenko "shot prisoners who, after escaping and then being recaptured, were hung upside down as an example to other prisoners."

Judge Norman C. Roettger found that the testimony of the Israeli witnesses was "not credible," and that Fedorenko could not be found to have "participated in the commission of crimes and atrocities" at Treblinka. In his defense, Fedorenko maintained that he had been drafted into

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the Red Army in June of 1941, captured by the Germans within a few weeks and, from that point on, was an "involuntary prisoner." Judge Roettger found this story "credible," and declared that Fedorenko was himself a "victim of Nazi aggression." On the basis of this conclusion, and in view of the defendant's exemplary behavior in the United States, Judge Roettger entered judgment for the defendant on all counts.

The survivors, now back at home in Israel, are, understandably, angry. One witness called the trial a mockery, and said that the judge had created an atmosphere of scepticism and disdain. Rifka Abramovitz, who was one of only two women to survive the camp and who had previously testified in Düsseldorf, said of her experience in Florida:

They treated us like we were on trial. In Germany, they would never do such a thing. In Germany, they would be very correct. But in Fort Lauderdale, they heard our testimony and they laughed at us.<sup>1</sup>

The case of Feodor Fedorenko is, unfortunately, not unique. The Immigration and Naturalization Service (INS) is currently investigating over 200 alleged Nazi war criminals living in the United States, and a number are soon to come to trial. Many of the individuals involved are non-Germans, and some were also in the Red Army in the early years of the war. In the light of this situation, it is important to explore how many Ukrainians came to be members of the SS and what winds of history brought some of them to the United States in 1949.

### *Early Years*

Feodor Demvanovich Fedorenko was born in the peasant village of Sivaschi in the Kherson region of western Ukraine on September 1, 1907. He was baptized into the Greek Orthodox faith and registered as a subject of the Muscovite Czar.

When Feodor was six, Russia went to war with Germany and his father was killed at the front; when he was nine, the Czar was overthrown. The resulting political chaos provided an opportunity for Ukrainian nationalist sentiment to flourish. When the Bolsheviks seized power in Moscow, the Ukrainian Peoples' Republic was formed, and on December 9, 1917, all relations were broken with the infant Soviet Union. A state of war was declared.

At that time, there were approximately 1,500,000 Jews in a total Ukrainian population of 30,000,000. While not sharing the general nationalist fervor, the Jewish community was, at first, on good terms with the government. A Ministry of Jewish Affairs was created which encouraged and supported Jewish national culture, and a law of national personal autonomy was passed which protected the civil rights of the Jewish population.

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1. Interview with the author, September 15, 1978. This is not her real name.



As the war progressed, however, right-wing military elements, particularly the Cossack legions, became increasingly dominant in Ukrainian society. General Skoropodski overthrew the civilian government and was, in turn, overthrown by a rightist coalition called the Directorate. The Ministry of Jewish Affairs was abolished; the law of national personal autonomy was repealed. Much of the nationalist ideology pictured the Jewish people as an internal enemy. Thus, the Organization of Ukrainian Nationalists (OUN), formed by the forces of the Directorate, wrote of the Jews:

They are living at the expense of the Ukrainian population, giving the latter absolutely nothing in return as a proper reward. . . . From the political point of view, they are enemies of the Ukrainian independent nationalist ideas. So far as culture is concerned, they are bacilli-carriers of degradation; judging from the social point of view, they fail as commercial elements to make the slightest return for the exorbitant profits they extort from the population.<sup>2</sup>

Despite the fervor of the Directorate, the war for a Ukrainian nation was lost on the front lines. What had begun as an uncertain struggle in 1917 became, by 1919, the absolute rout of Cossack and Ukrainian nationalist troops. As these troops retreated from east to west across the face of the Ukraine, pushed inexorably backward by the Red Army, they took out their frustration and vengeance on the Jewish population. The pogrom of 1919 brought death to an estimated 100,000 Ukrainian Jews. As Feodor Fedorenko reached his twelfth year, his home region of Kherซอน witnessed 23 recorded pogroms by civilians and retreating Cossacks.

By 1920, the Bolshevik regime had taken firm control of the Ukraine and absorbed it as the Ukrainian SSR. The political leadership of the Directorate and the OUN fled to refugee communities in Poland, Austria and France, while a network of OUN sympathizers remained active and secretly armed in the Ukraine. At first, the rule of the Soviets allowed and encouraged both Ukrainian and Yiddish culture, but, as Stalin asserted his leadership in Moscow, the right of nationalities to express minority cultures was severely curtailed. In the 30s, the Ukraine was the target of forced collectivization, as well as of intense political repression, costing the lives of at least 1,000,000 Ukrainians and further alienating the populace.

As the power of the Nazis grew in western Europe, many Ukrainians began to look to Germany for a solution to their problems. The OUN felt particularly sympathetic to the anti-Semitism of the NSDAP, and political ties were developed between Berlin and the refugee communities. By 1940, the Germans had entered into a secret alliance with the OUN and were providing military training for the refugee Ukrainians, often under the pretext that the trainees were *Volksdeutscher*. Under the direction of OUN military officer, Roman Shokevych, the all-Ukrainian *Nachtigall* Division was created within the *Wehrmacht*.

2. "Rozbudova Natsiyi," (Prague, 1929). Quoted in Michael Hanusiak, *Lest We Forget* (New York, 1975), p. 4.

When the decision was made by the Nazi leadership to invade the Soviet Union, the Ukrainians were brought in on the planning and the OUN alerted its network of military cells throughout the Ukraine. When the invasion of the Soviet Union was launched on June 22, 1941, the *Nachtigall* Division struck alongside the *Wehrmacht*, playing a major role in the battle for Lvov, while the OUN military units struck behind the Red Army lines. By the end of the summer, there were Ukrainian nationalist troops in Vinnitsa, Odessa, Kirovograd, and Kiev. Seizing the opportunity, the OUN National Congress met in Lvov and proclaimed the birth of a sovereign Ukrainian state.

This action went beyond the limits acceptable to Berlin. Despite the advantages to be gained from the alliance, Hitler's plans called for the eventual subjugation and settlement of this rich area; the Ukraine, therefore, was declared a Reich Protectorate. Nonetheless, many levels of the German bureaucracy continued to work closely with the nationalists. Within this situation, the OUN maneuvered to build an independent Ukrainian power base while, at the same time, aiding the German struggle against the Red Army. When the Germans proposed the creation of a Ukrainian *Waffen* SS Division composed of 60,000 men, the OUN enthusiastically participated in the recruiting efforts, and the Germans found themselves swamped with over 100,000 volunteers.

This collaboration had a more sinister side. As the Führer Order for the elimination of Jews and undesirables went into effect, members of the OUN participated in the roundups and executions carried out by the SS *Einsatzgruppen*. Many of the citizens of Kiev lined the streets and applauded as the SS, aided by the OUN, marched the city's Jews to the ravine at Babi Yar. By 1942, the burden of the final solution was shifted from the roving *Einsatzgruppen* to the more efficient *Vernichtungslagern* (annihilation camps), where Ukrainians played a major role. Four highly secret installations — Chelmno, Belsec, Sobibor, and Treblinka — were built within a 200-mile radius of Warsaw with the sole purpose of slaughtering the Jews. These camps were primarily staffed by Ukrainians serving in the SS. At Sobibor, there were 100 Ukrainians and 30 Germans; at Belsec, there were 200 Ukrainians and 40 Germans; at Treblinka, there were 150 Ukrainians and 40 Germans. In style and methodology, these killing centers shared historical roots, not only with the German concentration camp system, but also with the traditionally murderous pogroms of the Ukrainian Cossacks.

When the war erupted, Fedorenko was living in the Crimea. As the Red Army staggered and retreated under the onslaught of the *Wehrmacht*, it sought to expand its base rapidly in those areas of the Ukraine which it still controlled. Hundreds of thousands of men were swiftly drafted into the Red Army, given limited training, and sent to the front. Fedorenko was among them. Within weeks, his unit was surrounded and overrun by

the Germans. By the end of the summer, he was in a prisoner-of-war camp in Zytomir.

Conditions in the German POW camps were brutal. Prisoners often had no barracks facilities and very little food; tens of thousands died of starvation and exposure in the opening months of the war. But there were elements in the German military who understood that there were potential allies in these camps. Men were given an opportunity to change sides. Odilo Globocnik, the SS chief from Lublin who was put in charge of the *Vernichtungslagern*, created a special camp in Travniki, Poland, to train Ukrainian SS *Wachmänner* for participation in the final solution. Recruits were drawn from the POW camps, as well as from the civilian population. One of these recruits was Feodor Fedorenko. He maintained, at the trial, that he was forced to become a guard; many sources maintain that the SS took volunteers.

Whatever the method of selection, it is agreed by all sides that Fedorenko underwent *Wachmann* training at Travniki. The men were divided into units and given practice on the rifle range. As they became more proficient, they assisted the German SS in the roundups in Jewish communities throughout Poland. During this time, Fedorenko and his unit were used in Lublin and Warsaw. Upon completion of their training, they were sent to Treblinka.

Construction of the camp there had begun in the spring of 1942. The first transport to the camp arrived on July 23 and was filled with Jews from Warsaw who had been told that they were being resettled in the east; they were killed that day. Fedorenko arrived in September. For thirteen months, he worked in the camp as an armed guard, patrolling the outer perimeter, standing watch in the guard towers, and aiding in the unloading of the transports. At least once he worked as a guard at the crematorium; Rifka Abramovitz remembers seeing him there often. At the trial, Fedorenko maintained that he had been unaware of what was being done at the camp.

Treblinka was not large enough to keep many secrets; the entire camp was contained in an enclosed area roughly equivalent to 45 acres. One entrance for the Germans and Ukrainians, a gate in the southwest corner, led to their living quarters, mess hall, sickbay, and recreation area. A separate entrance for the prisoners, a rail line in the southeast corner, led to a phony railroad station. The myth of resettlement was preserved for as long as possible. As the prisoners poured off the trains under the watchful eye of the SS, a Jewish work commando collected their belongings. Any act of resistance was met with immediate violence by the guards. The prisoners were quickly sent to the undressing area, the women to the barracks where they had their hair cut, the men to the open square. Here, the Germans and Ukrainians often used force, building an atmosphere of terror in order to maintain control. When the prisoners were finally

naked, they were forced toward a corridor ten feet wide and four hundred feet long, lined with SS men who literally whipped the horrified victims into a frenzied run to the gas chambers. A couple of Ukrainians, Ivan and Nikolai, locked the chamber doors and turned on the gas. Within two hours of arrival at the camp, the victims were dead. A Jewish crematorium commando cleaned out the chambers and burned the corpses.

It is difficult to imagine someone working at Treblinka without his being aware of the purpose of the camp. Tens of thousands arrived each week; virtually all of them disappeared. The screaming of the victims could be heard periodically throughout the day, followed by an awesome silence as they were gassed. The Polish farmers who worked nearby were keenly aware of the camp's true function. One of them, Pan Zabecki, has said:

You must imagine what it was like living here; every day, as of the early morning, these hours of horror when the trains arrived, and all the time — after the very first days — this odor, this dark foggy cloud that hung over us, that covered the sky in that hot and beautiful summer, even on the most brilliant days — not a rain cloud promising relief from the heat, but an almost sulphuric darkness bringing with it this pestilential smell.<sup>3</sup>

During the winter of 1942, the Jews in the work commandos began to plan a rebellion, realizing that it was only a matter of time until they, too, would be executed. Despite enormous difficulties, they managed to spark a general uprising on August 2, 1943, in which almost a thousand prisoners attempted to escape. While a score of SS men were killed in that uprising, casualties were far more severe among the prisoners, hundreds of whom were shot down by Ukrainian guards in the watchtowers. It is estimated that 400 managed to break out of the camp and flee towards the forest where they were mercilessly hunted by airplanes, detachments of SS, and hundreds of dogs. Only 35 people managed to survive, the six Israeli witnesses among them.

In the fall of 1943, the *Vernichtungslagern* having accomplished their task, they were gradually abandoned. The executions in Treblinka were terminated in October. In the two months that followed, the barracks, watchtowers and all the wooden buildings were demolished, the gas chambers and crematorium were destroyed, and the entire camp was plowed under. Young pine trees were planted in an effort to camouflage the site, a field was sown with corn, and a Ukrainian family was brought in to settle on the land. All trace of the camp was erased from the face of the earth; the Jews had simply disappeared.

After leaving Treblinka, Fedorenko's unit was transferred, first to Danzig and then to the POW camp in Poelitz, Germany. Here, Fedorenko again worked as a guard. When the Third Reich collapsed, he was in

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3. Quoted in *Into That Darkness* by Gitta Sereny (New York: McGraw Hill, 1974), p. 155.

Hamburg, where he managed to work for the British from 1945 to 1949. While the Allies were checking former soldiers of the Reich in the search for war criminals, Fedorenko and his Ukrainian companions managed to pass themselves off as Polish refugees.

World politics shifted dramatically in the post-war years. The focus of American foreign policy changed from the anti-fascist alliance to the struggle against world communism. In 1948, Congress passed the Displaced Persons' Act, primarily to aid the victims of the Nazis, but, under its provisions, thousands of eastern Europeans were able to enter the United States as "refugees from communism." Fedorenko was among them. In 1949, he filed for immigration, listing his birthplace as Sarny, Poland, and avoided any reference to his work for the Germans. Sponsored by the right-wing Tolstoy Foundation, Fedorenko entered the United States in 1949, and settled on a farm near Litchfield, Connecticut.

### *The U.S.A. and Trial*

For twenty-eight years Feodor Fedorenko lived undisturbed. He briefly tried a few different jobs and finally settled down in a factory in Waterbury where he worked in the foundry. His fellow employees describe him as "a real gentleman" who was "very conscientious;" his foreman remembers him as a man who never filed a grievance. Fedorenko worked at this job for twenty years. In 1970, he was granted U.S. citizenship and in 1976, having retired, he moved to Miami Beach.

But while Fedorenko's life was quiet, his name and face had not been forgotten. A collection of photographs and documents had been captured from the SS, and there were Treblinka survivors who identified him as a guard at the camp. Research done by the Israelis and by private investigators led to the discovery that he was living in Connecticut. In 1964, his name and his Waterbury address were included on a list of 59 war criminals living in America. The list was compiled in Europe and Israel and forwarded to the I.N.S. in America. No action was taken.

The inactivity of the I.N.S. in regard to this list remains a matter for speculation. It has long been implied that the CIA, for reasons relating to the Cold War, has been protecting many eastern Europeans who collaborated with the Nazis, but, as yet, no substantive proof has been offered. Congressional Representatives Joshua Eilberg and Elizabeth Holtzman initiated a series of hearings on the question and succeeded in generating a full investigation by the Government Accounting Office. The GAO declared that there had been no conspiracy, but noted that there had, indeed, been laxity. One result of the pressure brought by Eilberg and Holtzman was the creation of a Special Litigation Unit in the I.N.S. to investigate the Nazi cases.

Though the I.N.S. was not clearly committed to investigating these cases, the prosecution of the Fedorenko case was handled by the Justice

Department. In 1977, the I.N.S. furnished information to Federal prosecutors which finally led to a civil suit to strip Fedorenko of his U.S. citizenship. Such an action is the necessary prerequisite for deportation and trial overseas for war crimes.

The trial first opened in 1978 in Waterbury, where testimony was taken as to the good character of the defendant. It then moved to Florida. The first day of testimony was greeted by a noisy demonstration; residents of Miami Beach, many of them concentration camp survivors, were brought to the District Court in Fort Lauderdale on buses chartered by the local J.D.L.

The Treblinka survivors travelled to Florida at the expense of the Justice Department, accompanied by Martin Kolar and Maria Radwicher, Israeli police investigators, who had helped supply information for the I.N.S. From the start there were problems. When the Israelis met the Cuban-born Hebrew interpreter chosen for the trial, there was a shared feeling that she had only a limited command of the language, but their objections were dismissed by the prosecuting attorneys. In addition, the Israeli police came prepared with material and photographs to aid the Justice Department, but much of this material was not used. There began to develop among the Israelis a sense that things were not being done properly.

As the trial progressed, this concern grew stronger. The first two survivors to testify, Eugen Turowski and Schalom Kohn, gave detailed accounts of their treatment at Treblinka and the role of Fedorenko in the camp. While they testified, Judge Roettger passed a few short notes to one of the court clerks, notes which the judge said later were simply "little jokes." One journalist was apprehended trying to retrieve one of these jokes from the judge's wastebasket. When Turkowski and Kohn had completed their testimony, Judge Roettger held a briefing for the press in which he is reported to have declared that he did not believe in the veracity of the Israeli witnesses. Yet, at that time, there were four survivors still to testify.

None of this brought an objection from the prosecution. It appears that the prosecuting attorneys did not present a single procedural objection throughout the trial. As the Israeli police watched this performance, they became deeply embittered. According to Kolar:

It isn't what they did as much as what they didn't do. They didn't prepare for the case; they simply did not know the material. They hadn't read the transcripts from the earlier trials in Germany; they hadn't read the journals and memoirs of the SS or of the prisoners who survived; they couldn't even explain to the judge the uniforms worn at Treblinka. It was very disturbing to us.<sup>4</sup>

The testimony continued. Joseph Czarny described how, in Warsaw,

4. Interview with the author, September 25, 1978.



after his parents and three sisters had died of starvation, he had surrendered to the SS for three kilos of bread. He testified that he had been sent to Treblinka, where he had seen Fedorenko shoot a prisoner near the camp "hospital." Rikfa Abramovitz testified that she had seen the defendant shoot a prisoner near the crematorium. And Pinchas Epstein, who insisted upon, and was finally granted, a new translator, told the court how Fedorenko had killed a man from Epstein's village.

The court did not appear to be impressed.

Later in the trial, Fedorenko took the stand. Throughout questioning, he denied having committed any atrocities. At the close of cross-examination, the judge took the opportunity to ask his own questions. In the judge's words:

... the court instructed the translator to ask whether defendant had done any of the shooting and beating of prisoners as testified to in the courtroom, and instructed defendant to "Please look at me, tell me either *nyet* or *da*, did you?"

From about ten feet away, with unobstructed eye contact, defendant's answer was sincere and strong: *Nyet*.

The court considered the answer credible.<sup>5</sup>

On July 25, Judge Roettger delivered his verdict. His most fundamental decision was to reject the government's contention that Fedorenko had "participated in atrocities at Treblinka." The entire verdict was constructed from the logic of this finding. Judge Roettger accepted the government's contention that Fedorenko had suppressed information on his immigration form, but declared that "a suppressed fact is not material unless the truth would have justified denial of a visa." Since Fedorenko had not harmed anyone at Treblinka, his failure to mention his service at the annihilation camp was not considered a "material" fact. Hence, the judge ruled, "This court specifically finds that petitioner lawfully entered the United States."

Likewise, Judge Roettger agreed that Fedorenko had lied when applying for citizenship, a misrepresentation which "would have been cause to deny defendant's application for citizenship," but ruled that now that citizenship had been granted, the misrepresentation must be proven to have been "material" in order to affect defendant's status. Again, service at Treblinka was declared immaterial. Consequently, "... the court cannot find under the circumstances that defendant was guilty of the kind of willful deceit which alone might justify a revocation of his citizenship."

Judge Roettger presented three basic reasons for disbelieving the survivors. He challenged the in-court identification of the defendant as "unreliable" because Eugen Turowski at first chose the wrong man, and Schalom Kohn and Joseph Czarny chose the right man too quickly. Yet,

5. Verdict of Judge Roettger in *U.S. v. Feodor Fedorenko*, p. 28.

clearly, in-court identification is problematic when the defendant has aged thirty-five years, grown a mustache, and acquired dark frame glasses. The alternative is identification of the defendant based on photographs from the years in question, the method which was used in Tel Aviv. Judge Roettger lodged his second objection on the grounds that the photo identification methods used by the Israeli police were unfair and suggestive because some of the witnesses were shown only eight different photographs and these were of varying sizes. The verdict states that "The photo spread simply does not pass muster under American law." Yet, the court record shows that the photo spread in question was prepared not by the Israelis, but by the American I.N.S., whose own rules state "The witness should be shown a minimum of three photographs of other individuals" for suitable identification.

The third objection made by Judge Roettger was that the Israeli witnesses seemed to have learned the testimony by heart. This brought the strongest reaction from Rifka Abramovitz. "We did not need to learn the testimony by heart," she declared. "These things you remember always, with your heart, and you do not need to learn them again."

The judge's attitude appeared to flow from a basic trust in Fedorenko. He found that the defendant had been sent involuntarily to Travniki, had been forced to become a *Wachmann* at Treblinka, and was, in effect, a "prisoner-gurad." Of the defendant, Roettger declared, "It is clear that he was transported from place to place and was obliged to obey orders under penalty of death and was not free to do whatever he chose." Yet, such a set of circumstances would accurately describe any soldier in any army in the world. Fedorenko was, indeed, subject to the restrictions enumerated above, but this was in his capacity as an *Oberwachmann* of the SS. It is true that Fedorenko and some of his comrades were originally POWs and were treated very badly in the German camps. It is also true that, once they had completed training at Travniki and were issued Ukrainian SS uniforms, whips, pistols, and machine guns, they lost the stigma of prisoners and earned the status of military rank.

The judge's view can stand only in the absence of any real information on the voluntary role played by Ukrainians and the OUN in perpetrating the final solution. Such information was at no time presented by the prosecution. Instead, they put forward an expert witness, Kempton Jenkins, who was familiar with the concentration camps in Germany, but totally unfamiliar with the annihilation camps of Poland. This action was symptomatic of the general lack of preparation. The unsettling aspect of the trial was the systematic failure of the Justice Department to make adequate use of the information with which it had been provided. As Kolar expressed it:

The fact is that the evidence was there. The best job wasn't done, but there was certainly enough evidence to convict. The problem was that the way in

which the case was presented actually helped the judge reach his verdict as he did.

An appeal was filed in the Fifth Circuit Court in New Orleans. Reaction to the verdict has been growing. The Anti-Defamation League and the American Jewish Congress have submitted an *amicus curiae* brief, written in part by historian Raul Hilberg. The brief argues that the Court's decision "amounts to a proclamation to other suspected war criminals now in hiding or concealed in this country: live an anonymous life in New York, in Detroit or Chicago and it won't matter what you did at Auschwitz, Treblinka, and Buchenwald."

This sentiment was echoed by Mr. Efraim Zuroff, Director of the Simon Wiesenthal Center in Los Angeles, which also submitted a brief. "If Fedorenko is acquitted," Zuroff declared, "every SS man hiding in America will claim he was a 'prisoner-guard.' We are entering this case to ensure that everything possible is done to bring these men to justice."

### *Aftermath*

The insufficient preparation by the Justice Department in the Fedorenko case does not augur well for the numerous cases soon to come to trial. There have already been charges of similar mishandling in the cases of Karlis Detlavs and Vila Hazners. Voices in the Jewish community, particularly in Israel, continue to wonder if the Nazis in America are being protected by powerful friends. Even if this notion proves to be fanciful, it is clear that the United States government is doing terribly inadequate work. If the situation is not rectified, it is possible that scores of participants in the final solution will find permanent refuge in America.

In 1920, many of the participants in the Ukrainian pogrom, along with most of the leadership of the Directorate, found refuge in western Europe where they were welcomed as refugees from Bolshevism. In response, the Federation of Ukrainian Jews in London issued a booklet on the pogrom which declared:

The principal murderers and the guilty ones are at the present moment in full liberty and go entirely unpunished, since most, if not all of them, have gone to countries within the sphere of influence of the League of Nations. We demand that an exemplary punishment should be visited upon them.<sup>6</sup>

No action was taken against any of these men by any European government. It is the shame of the western democracies that they continue to be the historical refuge for the destroyers of eastern European Jewry.

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6. *The Ukraine Terror and the Jewish Peril* (London: The Federation of Ukrainian Jews, 1921), p. 6.

# *Paranoia About Fundamentalists?*

DAVID A. RAUSCH

"HISTORICALLY, FUNDAMENTALIST PROTESTANTS are anti-Semitic!" This statement has been made not only by rabbis and representatives of Jewish organizations, but appears without qualification in Jewish periodicals and books. Even when it is not dwelt upon in intellectual circles, this theory is believed and decisions are made based upon its unquestionable validity. The idea had captured the fancy of Rabbi Alexander M. Schindler when, as President of the American Union of Hebrew Congregations, he wrote to Reform Jewish leaders during the emergence of Jimmy Carter that "historically, anti-Semitism had its roots in fundamentalist religion." The hypothesis was supported by the National Jewish Community Relations Advisory Council in its discussion of "Key '73." In a section of the NJCRAC Joint Program Plan 1975-1976, there is the implication that Fundamentalist literal Biblical interpretations foster "negative images of Jews and Judaism" and that these are a definite regression from the more positive theology emerging from "Catholic and Protestant scholars and professors of theology" (p. 43). Rabbis are advised by the NJCRAC and the Anti-Defamation League to seek the help of liberal Protestant clergymen and their organizations in countering the "negative influences" of Fundamentalist-Evangelicals. It is nearly impossible, therefore, for American Jewish intellectuals to believe that Fundamentalists are anything but nominally (if not blatantly) anti-Semitic.

The amazing revelation about this pervading philosophy is that it is totally inaccurate. Fundamentalist Protestants are *not* historically anti-Semitic, nor are they anti-Semitic at the present time. Rather, they are ardent supporters of Israel and of the Jewish heritage. They feel closer to the Jewish people than to liberal Protestantism, Catholicism or the various cults. Israeli scholars, like David Flusser of The Hebrew University, have realized this fact for some time. They chuckle inwardly at the majority of American Jewish intellectuals who fail to appreciate Fundamentalist sentiments and, instead, court liberal Protestants as if Judaism's existence depended upon silencing the ostentatious Fundamentalists. Ironically, it is liberal Protestantism that has been "historically" anti-Semitic!

The reality of liberal American Protestantism's "historic" anti-Semitism is not hidden from anybody who desires objectively to research the mass of primary materials that are available. Hertzell Fishman's analysis of American liberal Protestantism from 1937-1967 in *American Protestantism and a Jewish State* (1973) reveals this sinister anti-Semitism, and

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Fishman is an example of a Jewish scholar who "approached" the facts as they stand. Not only did he realize that liberal Protestants "historically" opposed a Jewish State in Palestine, minimized the Holocaust, obstructed immigration of Jewish refugees, tried to reduce Israel's boundaries and consistently supported Arab "rights," but he found that, *theologically*, American liberal Protestantism was geared to reject Jewish "peoplehood" and was inherently permeated with anti-Jewish bias. These "historic" traits of liberal Protestantism in America are presently in evidence, although they have seldom been expressed in theological terminology. This absence, plus the antagonism to "the Fundamentalist blight," has waltzed liberal Protestantism into the arms of unwary Jewish leadership.

Evangelical emergence on the national scene has given Jewish intellectuals a rare opportunity to be "relevant" in investigating Fundamentalist-Evangelicals. Research about them is being pursued and dialogue has already begun. Dr. Samuel Cohen, Executive Director of the American Zionist Federation, has worked with Evangelicals in the preparation and delivery to former Ambassador Dinitz of a proclamation of Evangelical Christian solidarity with, and for, the nation of Israel. An outgrowth of that proclamation (which was signed by leading Evangelicals) is the formation of a new organization called Evangelicals United For Zion. In Philadelphia, sixty Evangelical and Jewish leaders gathered for an interreligious dialogue sponsored by *Eternity* (a Fundamentalist-Evangelical periodical) and the American Jewish Committee. Leaders from both communities discussed Israel, anti-Semitism, social concerns, theological issues and conversion. AJC director, Marc Tanenbaum, emphasized that Christian and Jewish relations were "absolutely critical" and "not a luxury" in the light of Evangelical emergence on the national scene.

It may surprise the Jewish community that Fundamentalist-Evangelical interest and support is not new, and that even this recent dialogue has "historic" antecedents. For example, the early Fundamentalist, William E. Blackstone, organized a conference between Christians and Jews in 1890. He was chairman of the assembly which was held in the First Methodist Church of Chicago, and was attended by prominent Christian clergymen and Reform rabbis. Blackstone was surprised that, at that meeting, the hope of the return of the Jewish people to Palestine was proclaimed only by Fundamentalist Protestants. The Reform rabbis disavowed any such hope. Exclaimed Rabbi Emil G. Hirsh:

We modern Jews do not wish to be restored to Palestine . . . the country wherein we live is our Palestine . . . We will not go back . . . to form again a nationality of our own.

*The American Israelite* ridiculed the project, maintaining that the United States Government could do nothing and that the Jews in emancipated countries did not desire to return to Palestine. Resolutions of sympathy for

the oppressed Jews of Russia, however, were unanimously passed by this conference and copies were sent to the Czar and to other rulers.

Blackstone believed that these “resolutions of sympathy” were inadequate and, in 1891, originated the Blackstone Petition, which urged the President of the United States, Benjamin Harrison, to influence European governments

to secure the holding, at an early date, of an international conference to consider the condition of the Israelites and their claims to Palestine as their ancient home, and to promote in all other just and proper ways the alleviation of their suffering condition.

The petition’s opening sentence is bold, asking the question, “What shall be done for the Russian Jews?” It answers:

Why not give Palestine back to them again? According to God’s distribution of nations, it is their home, an inalienable possession, from which they were expelled by force . . . Let us now restore them to the land of which they were so cruelly despoiled by our Roman ancestors.

The petition was signed by 413 outstanding Gentile and Jewish leaders in this country and, through the State Department, was distributed to the principal nations of the world.

This political involvement with the restoration attempt elicited a statement in 1918, from Elisha M. Friedman, Secretary of the University Zionist Society of New York: “A well known Christian layman, William E. Blackstone, antedated Theodor Herzl by five years in his advocacy of the re-establishment of a Jewish state.” Blackstone was no stranger to Zionist meetings during the first few decades of the twentieth century and presented gifts in memory of his experiences in Palestine (he visited there in 1889). In fact, he addressed a Zionist meeting in Los Angeles on January 27, 1918 and expressed his joy concerning the thrilling events in Palestine.

Fundamentalist “historic” support for the restoration of the Jewish people to its homeland, as well as for the state of Israel when it emerged on the world scene, has been constant and strong during the entire twentieth century, and Blackstone’s enthusiasm is not unique among Fundamentalists. But even in an age when philo-Semitism is gauged by the quantity and quality of support for the nation of Israel, Jewish intellectuals question whether this “Fundamentalist Zionism” can be equated with philo-Semitism. Is not evangelism by these literal Bibli-cists a threat to Jewish peoplehood? Do not the Messianic expectations of these Fundamentalists constitute blatant anti-Semitism? Such questions are fair and should definitely be answered. Only then will an initial understanding of the Fundamentalists be possible.

The key to understanding the riddle of the Fundamentalist movement is, first of all, to understand *Biblical literalism*. The Fundamentalist-Evangelical believes that the Bible is the Word of God. Not that it “con-



tains" merely the principles of God's message to mankind, but that it *is* God's message to mankind. The *Tanakh* is as important as are the writings of Paul. Because of this view, the Fundamentalist-Evangelical is nearly alone in Christendom in his support for Jewish "peoplehood." The Bible tells him that Jews are God's "Chosen People." He believes it. The Bible tells him that God has not forsaken the Jewish people. He believes it. The Bible tells him that God has a special Plan for the Jewish people. He believes it. The Bible tells him that the Jewish people have an inherent right to possess the Land of Israel. He *literally* believes it! His literal interpretation of the Bible fosters a love and respect for the Jewish community and a defense of the Jewish heritage that seems totally foreign to historic Christendom and amazes the Jewish scholar. It is a distinct contrast to Liberal Christianity's theological premise that the Christian Church is "spiritual Israel" and has received God's promises that were initially given to the Jewish people.

What disturbs the Jewish scholar, however, is that this same Biblical literalism leads the Fundamentalist-Evangelical down the path of evangelism. The writings of Paul tell him to take the Gospel message "to the Jew first and also to the Gentile." He is to tell Jewish people, out of love for them and out of duty to God, that Jesus was their Messiah and that he is coming again.

However, one must understand the Fundamentalist-Evangelical's view of the future in order to evaluate fairly the threat of his evangelism. The Fundamentalist-Evangelical believes that the Jewish people will return and will strengthen the nation of Israel *in unbelief*—in other words, the large majority of Jewish people will *not* accept Jesus as Messiah *until* he returns. Then, seeing the Messiah in person—*not* evangelism—will change the mind of the majority of the Jewish community. Therefore, the Fundamentalist-Evangelical is obliged to tell the message, *but* he is not to *force* it upon the Jewish people. The average Fundamentalist will stop "evangelizing" an individual when he is told politely to do so.

In contrast, Liberal Protestant theology can not accept the uniqueness of the Jewish people and their heritage. The Liberal emphasis on the "Brotherhood of Mankind" appears to be appealing until one realizes the hidden requirement for accommodation to Christian culture. If the "mainline" Christian denominations become tired with Jewish resistance to a "universalist milieu," their theology supports the rights of Liberal Christianity to *force* (by exclusion or coercion) the Jewish people to accommodate. According to Liberal Christianity, God has no plan for the Jewish people, apart from the Christian Church. Jewish people are not special, just as Israel is not special. As Fishman concluded from his study, there is a

sharp contrast which exists between its theoretical objections to anti-Semitism and the practical injurious effects of its own subtle anti-Semitism on the destiny of the Jewish people as a collective body. Protestantism's

liberal attitude toward Jews as individuals stands in sharp contrast to its persistently hostile attitude toward Jewish peoplehood (*Op. Cit.* p. 178).

But, one must then ask, if the Fundamentalist-Evangelical loves the Jewish people, why can't we get him to stop all evangelizing efforts among the Jewish people? Doesn't this undermine the recognition of the authenticity of Judaism? The answer is that, as long as the Fundamentalist-Evangelical takes literally the Bible's support of Jewish peoplehood, he will also take literally the New Testament, at least to tell the Jewish community about his idea of God's plan of salvation. Obliterating Judaism is definitely *not* his intention. Although Jewish writers of late (note for example, Theodore Freedman, *ADL Bulletin* April, 1977, p.2) suggest dialogue on evangelism with Fundamentalist-Evangelicals, evangelism will not be stopped entirely. It can *not* be . . . although, the Fundamentalist-Evangelical may strive to be more sensitive toward Jewish individuals as he realizes their horror at his methods of evangelism. The same Jewish writers emphasize that the "Christian evangelics currently constitute no real threat to Jewish survival" (note Freedman, p. 2), but believe that the potential threat is there.

Evangelism should not be blown out of proportion or hinder Jewish-Fundamentalist relationships. A good example of Fundamentalist Philo-Semitism coupled with evangelism can be found again in the life of William E. Blackstone. He was also the founder of the Chicago Hebrew Mission—a mission with the specific purpose of "evangelizing" the Jewish people! When Blackstone addressed the Los Angeles Zionist conference in 1918, he suggested to the audience that one option for the Jews in attendance was to accept Jesus Christ as Lord and Saviour. He immediately added that he knew that very few would do so. He then encouraged them to be superb Zionists and to study the Bible for themselves. Note that he felt obliged to mention the message but did not *force* it—and would not. His audience did not think of him as anti-Semitic, because they knew of his love, concern and support of the Jewish people. And, few Fundamentalists, today, would be as bold in their statements to a Zionist congress as was Blackstone.

Some who read this article may not be able to accept the conclusions concerning the general trends of Fundamentalist-Evangelicals. Perhaps now they will endeavor to research the facts for themselves and not put their faith in unfounded presuppositions concerning Fundamentalist "anti-Semitism" and supposed Liberal Protestant "support." They might be pleasantly surprised to find that if a Fundamentalist could not be a "born-again" Christian, his next choice would be to be a Jew!

# *The Creation in Jewish Liturgy*

JAKOB J. PETUCHOWSKI

IT WOULD NOT BE TOO MUCH OF AN EXAGGERATION to assert that practically the whole of the Jewish liturgy is one continuing celebration of the Creation and of Creation's God. Or, to be a little more precise, one might say that Creation is one of the three major themes which run like a red thread through the whole of Jewish liturgy. The Jew, as Franz Rosenzweig has rightly seen, experiences God as Creator, as Revealer and as Redeemer; and the liturgy, both in its contents and in its structure, reflects that experience.<sup>1</sup>

The very recitation of the *Shema*, Judaism's main creedal affirmation: "Hear, O Israel; the Lord our God, the Lord is One," is embedded within a framework of three benedictions (*berakhot*) which praise God in Creation, in Revelation and in Redemption.<sup>2</sup>

The first of those benedictions, in the daily Morning Service, reads as follows:

You are praised, O Lord Our God, Ruler of the Universe,  
Fashioner of light and Creator of darkness,  
Maker of peace and Creator of all,  
In mercy, You give light to the world  
and to those who dwell upon it.  
In Your goodness, You daily renew the act of Creation.  
How manifold are Your works, O Lord!  
In wisdom You have made them all.  
The earth is full of Your creatures.

...

In the daily Evening Service, the corresponding benediction reads:

You are praised, O Lord Our God, Ruler of the Universe,  
who, by His word, brings on the evening twilight.  
In wisdom You open the gates (of heaven).  
In understanding You change the times  
and vary the seasons,  
ordering the stars in their heavenly courses  
according to Your will.  
You create day and night,  
rolling away the light from before the darkness,

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1. Franz Rosenzweig, *The Star of Redemption*, tr. William W. Hallo, (New York: Holt, Rinehart and Winston, 1971), *passim*.

2. Cf. Joseph Herman Hertz, ed., *The Authorised Daily Prayer Book* [revised edition], (New York: Bloch Publishing Co., 1948), pp. 108-128; 304-312. (The page references here and in subsequent Notes are to the Hebrew text of this prayerbook. The English translations are our own.)

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and the darkness from before the light.  
 You cause the day to pass,  
 and You bring on the night,  
 separating day from night.  
 . . .

The opening words of the Creation benediction in the Morning Service are, of course, derived from Isaiah 45:7 — with one important change. Isaiah 45:7 reads:

I form the light and create darkness;  
 I make peace, and create evil;  
 I am the Lord who does all these things.

The Synagogue changed the reference to God's creation of *evil* into one referring to God as the Creator of *all*. The change was not due to any disagreement with Deutero-Isaiah's theology, so the Talmud informs us,<sup>3</sup> but, rather, to a feeling for the fitness of things in prayer, a feeling which preferred a euphemism to the express mention of "evil." After all, if God is the Creator of all, then He must obviously also be the Creator of what we humans experience as evil.

A difficult bit of theology, this; but obviously intended as such by Deutero-Isaiah in his confrontation with Persian dualism. And not only by Deutero-Isaiah! The adaptation of Isaiah 45:7 as a benediction preceding the *Shema* goes back, according to Kaufmann Kohler, to the early Pietists in the Palestine of the Persian period. When they saw the Zoroastrian priests praying to the rising sun as a manifestation of the god Mazda, they, the Jewish Pietists, would pray to the One God who is both the Fashioner of light *and* the Creator of darkness.<sup>4</sup>

Kohler's theory, which also identifies those early Pietists with the Essenes, may be no more than an unproved hypothesis. But there can be no doubt that the benediction in question is a very ancient one. The Mishnah already takes it for granted. Nor can there be any doubt about its anti-dualistic polemical edge, seeing how emphatically the Rabbis insisted that the morning benediction about light must also include a reference to darkness, and that the evening benediction about darkness must also include a reference to light.<sup>5</sup>

If the opening words of the Creation benediction of the Morning Service imply a rejection of Zoroastrian dualism, then, so it would seem, the continuation of that benediction also directs a barb or two at the Gnostics. God, it says, gives light to the world and its inhabitants *in mercy*. He daily renews the act of Creation *in His goodness*. Yet we know that, in the various Gnostic systems, the god of whom mercy and goodness can be

3. B. *Berakhot* 11b.

4. Kaufmann Kohler, *The Origins of the Synagogue and the Church* (New York: Macmillan, 1929), pp. 54–57.

5. B. *Berakhot* 11b.

predicated is the Unknown God, the god who is all spiritual, and who has no contact whatsoever with matter. It is, on the other hand, the *demiourgos*, the world-creating god, who, in Gnosticism, is anything but a god of goodness and of mercy. Judaism, however, rejected Gnostic dualism as much as it had rejected Zoroastrian dualism. The positing of *shetei reshuyot*, of two divine powers, was the heresy *par excellence*, as far as Rabbinic Judaism was concerned! As against Gnosticism, then, Judaism affirms the goodness and the mercy of God precisely in God's act of Creation.

There could have been no other way for Judaism. After all, the very first chapter of the Hebrew Bible proclaims the world, as God's handiwork, to be "very good." This proclamation has had some interesting repercussions in Jewish life. It made asceticism, for example, a peripheral phenomenon in Judaism, rather than a commonly accepted ideal of piety.

Characteristic in this connection is what the Rabbis had to say about the nazirite. Indeed, the Law did allow for this manifestation of pietistic supererogation, which, among other things, involved abstinence from wine and other alcoholic beverages.<sup>6</sup> But the Law also limited the duration of that abstinence; and the Law provided a purification ritual at its conclusion — a ritual which also included the bringing of a sin-offering.<sup>7</sup>

"Why a *sin-offering*?" asked the Rabbis, assuming the nazirite to be probably less sinful than other people. They found the answer to their question in the fact that, while God, in His goodness, has provided us with various sources of enjoyment, this man, in his excessive piety, had the effrontery to throw the divine gift right back into its Donor's face!<sup>8</sup>

In the same spirit, a passage in the Palestinian Talmud warns us that we shall be held accountable before the Throne of Judgment for any legitimate pleasures which we might have enjoyed, and which, nevertheless, we denied ourselves.<sup>9</sup>

It is clear, then, that the celebration of Creation in Jewish liturgy will have to be more than a simple affirmation of the greatness of the Creator God. It will also have to be an expression of man's gratitude for the benefits which he, man, derives from that Creation. There is, in fact, a naive and unashamed anthropocentricity in the Jewish celebration of Creation.

If one sees handsome people and beautiful trees, states a *baraita* (i.e., an early Rabbinic source), one should say: "Praised be He who has it thus in His world!"<sup>10</sup>

Handsome people and beautiful trees are thus seen as "declaring the glory of God." But that same *baraita* is also restated on another page of the Talmud in the following form:

6. Numbers 6:1–21.

7. Numbers 6:14.

8. *Sifrei* to Numbers, *Naso*, *pisqa* 30, ed. Horovitz, p. 36.

9. P. *Qiddushin* IV, 12, Krotoshin ed., p. 66d.

10. B. *Berakhot* 58b.

If one goes out in the days of Nisan (i.e., in the Spring) and sees the blossoming trees, one should say: "Praised be He who has left nothing lacking in His world, but has created in it handsome people and beautiful trees *in order to give delight to humankind*."<sup>11</sup>

And it is with this anthropocentric addition that the benediction in question has entered the authorized liturgy of Judaism.<sup>12</sup>

One of the ramifications of this attitude which, alas, has *not* become standard Jewish practice, but which is, nevertheless, worth recording here, is the following report in the Talmud:

It once happened that Rabbi Simeon ben Gamaliel found himself on the ascent to the Temple Mount, and there he saw an exceedingly beautiful Gentile woman. He said: "How great are Your works, O Lord!"<sup>13</sup>

While we obviously cannot exhaust the treatment of Creation in Jewish liturgy without covering that liturgy from beginning to end, there are some salient features which must still be mentioned.

The compilation of the Biblical Book of Psalms precedes the standardization of the traditional Jewish liturgy. But it should be pointed out that several of the Psalms which celebrate Creation, such as Psalms 8, 19, 24, 104 and many others, have been incorporated into the liturgy.<sup>14</sup>

The three Biblical pilgrim festivals, Passover, Pentecost and Tabernacles, had undergone a process of "historicization" already, in part, within the Biblical period itself. Thus, Passover came to celebrate the Exodus from Egypt, and Tabernacles recalled God's Providence during Israel's desert wanderings. Pentecost became the "Festival of the Giving of Our Torah" in the Rabbinic period, if not, indeed, slightly before.<sup>15</sup> But it must be stressed that those Festivals, even in their historicizing transformations, never ceased to retain their original agricultural meanings, and they thus continued to celebrate aspects of Creation.

Sometimes, moreover, a Festival which was not invested with the Creation theme by the Bible itself was so invested by Rabbinic Judaism. The Biblical Day of Memorial is a case in point.<sup>16</sup> The Rabbis celebrated it as a New Year Festival, and regarded that day as "the birthday of the world."

And then, of course, there is the Sabbath, the weekly commemoration of the Creation. The Exodus version of the Decalogue gives the Creation as the motivation for the Sabbath. The Deuteronomy version of the Decalogue mentions the Exodus from Egypt as the reason for keeping

11. B. *Berakhot* 43b.

12. Hertz, *Op. cit.*, p. 990.

13. B. *'Avodah Zarah* 20a.

14. See Hertz, *Op. cit.*, p. 1120 for a list of the Psalms included in the daily, Sabbath and Festival liturgy.

15. Cf. Jakob J. Petuchowski, "Qol Adonai — A Study in Rabbinic Theology," in *ZRGG*, Vol. XXIV (1972): 16.

16. Leviticus 23:25.



the Sabbath holy. Jewish liturgy takes account of *both* motivations, calling the Sabbath, in the *Qiddush* prayer, a "commemoration of the act of Creation" as well as a "memorial of the Exodus from Egypt."<sup>17</sup>

There is something worth noting in this connection. The Jewish pulpit, in the nineteenth and twentieth centuries, has been ringing with the praises of man as "God's partner in the work of Creation." The phrase does, indeed, go back to classical Rabbinic sources. But, in those sources, the phrase occurs within two contexts only. A human judge who renders a true verdict is called "a partner of the Holy One, praised be He, in the work of Creation."<sup>18</sup> And so is the Jew who, on Friday night, recites Genesis 2:1-3 (the verses about the Sabbath of Creation), thereby testifying to God's creative act.<sup>19</sup> The theological implication here is quite daring. God, the assumption is, would remain unknown as the Creator if man did not, on the weekly Sabbath, celebrate God's Creatorhood!<sup>20</sup>

But not only on the weekly Sabbath is that Creatorhood affirmed by the Jew. In the humdrum routine of daily living, the Jew is called upon to express his gratitude for the Creation.

The mere partaking of a glass of water or of a piece of chocolate requires the Jew to say: "You are praised, O Lord our God, Ruler of the Universe, by whose word all things come to be."<sup>21</sup>

When he sees lightning, meteors, lofty mountains or a great desert, he is bidden to say: "You are praised, O Lord our God, Ruler of the Universe, who has performed the act of Creation."<sup>22</sup>

And there are numerous other benedictions of this kind, the so-called *birkhot hanehenin*, that is, benedictions offered for enjoyments.

The theme of Creation also figures prominently in the ritual of the Jewish Marriage Service. Of the Seven Benedictions, with which that ceremony concludes, no less than four deal, in one way or another, with the theme of Creation:

You are praised, O Lord our God, Ruler of the Universe, who has created all things for His glory.

You are praised, O Lord our God, Ruler of the Universe, Creator of man.

You are praised, O Lord our God, Ruler of the Universe, who has created man and woman in His image, fashioning woman from man as his mate, so that together they may perpetuate life. You are praised, O Lord, Creator of man.

Make these beloved companions abundantly happy, as, of old, You gladdened Your creatures in the Garden of Eden. You are praised, O Lord, who causes bridegroom and bride to rejoice.<sup>23</sup>

17. Hertz, *Op. cit.*, p. 408.

18. *Mekhilla, Yitro*, ch. 2, ed. Horovitz-Rabin, p. 196, and parallels.

19. *B. Shabbat* 119b.

20. *Mekhilla, Yitro*, ch. 8, ed. Horovitz-Rabin, p. 234; and cf. Rashi, *Sefer Hapardes*, ch. 4; *Kol Bo*, ch. 35; Malbim's commentary on Exodus 20:8.

21. Hertz, *Op. cit.*, p. 988.

22. *Ibid.*, p. 990.

23. *Ibid.*, p. 1012.

God's glory and human joy and happiness! Is that, then, all we can say about the theme of Creation in Jewish liturgy?

Not quite! For one thing, Creation, as we have already noted, is not the end-all and be-all of Jewish liturgical affirmation. Creation falls into perspective when it is supplemented by the themes of Revelation and Redemption.

For another, the celebration of Creation also implies an awareness of human *responsibility*.

The Creation Benediction introduces the recitation of the *Shema*. But the *Shema* is more than the simple affirmation that "the Lord our God is One." The *Shema*, in the traditional Jewish liturgy, consists of three Biblical paragraphs: Deuteronomy 6:4–9; Deuteronomy 11:13–21; and Numbers 15:37–41.

The second paragraph of the *Shema*, i.e., Deuteronomy 11:13–21, is called by the Rabbis "The Acceptance of the Yoke of the Commandments." It expresses the characteristic theology of the Deuteronomist: if you observe God's commandments, you will have rain in its proper season and agricultural abundance. If you transgress the commandments, then God "will shut up the heaven, that there be no rain, and that the land yield not her fruit." We may say that, in the mind of the Deuteronomist, the moral order and the natural order are intimately linked, like meshing gears. Any interference with the former will inevitably affect the latter.

That, in any literalist sense, may no longer be our own experience. Already the Rabbis of the Talmud took a rather "empirical" approach to the matter, and concluded as follows:

If a man stole a measure of wheat, and then went out to sow it, by all logic (*din hu*, i.e., if the Deuteronomist is right) that wheat should not sprout. Nevertheless, the world goes on in its accustomed way (*olam keminhago noheg*). But the fools, who acted corruptly, will ultimately have to render an account.<sup>24</sup>

While, therefore, the teaching of the Deuteronomist may not be verifiable in any immediate or literalist sense, its long-range applicability is not denied. The underlying inter-connection between the moral order and the natural order is maintained — a principle which has been reaffirmed by our latter-day environmentalists, religious or otherwise.

No less pronounced is the inter-relationship between Creation and human responsibility in the liturgy of the New Year Festival:

This day marks the beginning of Your work;  
it is a remembrance of the very first day.  
For it is a statute for Israel,  
a decree of the God of Jacob.  
On it, sentence will be passed upon countries —  
which of them is destined to the sword,

24. B. *Avodah Zarah* 54b.

and which to peace,  
which to famine,  
and which to plenty.  
On it, each separate creature is judged,  
and recorded for life or for death.<sup>25</sup>

Creation and Judgment! The two go together. And, in response to the stirring sound of the ram's horn, the congregation proclaims three times:

This day the world was born.  
This day all creatures stand in judgment!<sup>26</sup>

We have earlier spoken about the naive and unashamed anthropocentricity which marks the celebration of Creation in the Jewish liturgy. That anthropocentricity is undoubtedly there. It is, in fact, aided and abetted by the Rabbinic advice that each man should say: "The world was created for my sake."<sup>27</sup>

Yet that anthropocentricity does not exhaust our theme. There is, after all, a certain dialectic between the statement that the world was created for *my* sake and another Rabbinic statement which asserts: "Everything which the Holy One, praised be He has created, He has created for His own glory."<sup>28</sup>

Judaism allows us to take an anthropocentric view of Creation, to partake of all the pleasures and delights which Creation affords — but only as long as we, ourselves, through our lives and through our deeds, proclaim the glory of God, which is the ultimate aim of Creation.

That is where human responsibility comes in. And that is where the prospect of Judgment is never left out of consideration.

An awareness of God's glory and of human responsibility balances the man-centered view and the sheer hedonistic delight in Creation throughout the poetic utterances of the Jewish liturgy.

25. Hertz, *Op. cit.*, p. 878.

26. Arthur Davis and H.M. Adler, eds., *Service of the Synagogue. New Year Volume*, [17th ed.], (London: Routledge & Kegan Paul, 1949), pp. 157, 160, 162.

27. *Mishnah Sanhedrin* 4:5.

28. *Pereq Qinyan Torah*, 11; cf. Hertz, *Op. cit.*, p. 720.

# *Why Do The Righteous Suffer?*

## *Notes Toward a Theology of Tragedy*

HAROLD S. KUSHNER

THEOLOGIANS HAVE BEEN DEFINED AS PEOPLE who have answers to questions that nobody is asking. While much theological discourse can be so described, those of us who are frequently called away from our books to deal with people in crisis know that there is at least one theological question which people *are* asking, and asking urgently: How could God let such a thing happen?

The sufferings and misfortunes of good and decent people are a problem, not only to the good and decent people who suffer, but to all who want to believe in a just and orderly world. They are an affront to our sense of the world's fairness, and they perforce raise questions about the goodness, the compassion, even the existence of God.

The question is hardly a new one, and the fact that the Bible has several answers to it leads one to suspect that, as with the common cold, the answers are many because no one of them is entirely satisfactory. Sometimes conventional Biblical wisdom denies the problem, and insists that people get only what they deserve at the hands of a righteous God:

No ills befall the righteous, but the wicked are filled with trouble (Prov. 12:21).

But Er, Judah's first-born, was wicked in the sight of the Lord, and the Lord slew him (Gen. 38:7).

Our father died in the wilderness. He was not among the company of Korach . . . he died for his own sin (Num. 27:3).

Tell the righteous it shall be well with them, for they shall eat the fruit of their deeds. Woe to the wicked! It shall be ill with him, for what his hands have done shall be done to him (Isa. 3:10-11).

In other passages, the prosperity of the wicked and the sufferings of the righteous are seen as illusory or temporary, as in Ps. 92. The wicked may spring up as the grass, that is, they may gain a temporary headstart because of their lack of scruples. But they will fade rapidly, even as the grass does, while the righteous shall prosper in due time, slowly but steadily, like a palm tree or a cedar of Lebanon. If we are patient and avoid rash outbursts of despair, we, too, will learn that "the Lord is upright; He is our Rock, there is no unrighteousness in Him."

The suffering of a good person can be seen as purgative or educa-

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tional (For whom the Lord loves, He chastises, even as a father to the son he loves [Prov. 3:12]), or as a test to measure the depth of one's loyalty to God, whether for God's edification, the individual's or the world's (so probably, the Akedah narrative in Gen. 22, and the prose tale of Job; see below).

As a last resort, the question can be left unanswered or answered enigmatically, as when Jeremiah asks it (Jer. 12:5). Nowhere, except in a very late passage in Daniel, does the Bible solve the problem by invoking the bliss of a World to Come, and nowhere, except perhaps in a few verses in Ecclesiastes, does it do away with the problem by admitting that the world is, in fact, unfair. Similarly, it will not absolve God of responsibility by suggesting that some other divine or semi-divine agent causes the good to suffer. It is God alone who hurts and heals; He creates peace and fashions evil.

To sensitive minds of an earlier age, these solutions were as unsatisfying as they are to many people today. To insist that people get only what they deserve is to refute the plain experience of everyone who has seen the good, the humble, the pious, the young suffer and has not been able to convince himself that they deserved it, unless God's concept of goodness is so different from our own as to make the use of the same word for both inappropriate. How, ultimately, does one reconcile the tragic illness of a child with the statement that "no ills befall the righteous, but the wicked are filled with trouble?" Would one really want to stake the acceptability of his religion on the premise that people get what they deserve in life, no better and no worse? What consolation is it to be told that injustice is temporary, if the just man dies in the interim? And how can suffering be instructive if we can never really know what we are being chastened for?

Early in the Second Commonwealth, a man of extraordinary literary and intellectual gifts ventured to deal with this problem in what we have come to know as the Book of Job. He took a pious fable which told of God's being tempted to test the loyalty of His most devoted follower, and in which the righteous Job lost everything, but remained faithful to God, ultimately being rewarded for his patience. Wife and friends urged him to give up his faith which had done so little to protect him, but he remained steadfast.

Dissatisfied with the unreflective piety of this fable, our author cut the story in half and inserted into the middle thirty-nine chapters of dialogue in which the roles are reversed: now it is Job who cries out and challenges, and his friends who uphold the conventional picture of God.

We can schematize the arguments of the Book of Job by noting three propositions which all of the characters in the book wish to affirm:

- (A) God is all-powerful and causes whatever happens in the world.
- (B) God is just, and stands for people getting what they deserve.
- (C) Job is a good person.

As long as Job is healthy and wealthy, one can believe all three of these

propositions. But when Job loses his possessions, his family, and his health, any two of those propositions can be affirmed only if the third is denied.

Job's friends choose to give up the belief in (C). They insist that God is both just and powerful and they must, therefore, conclude that Job is a sinner who deserves his fate. In fact, the more Job protests his fate, the more he proves the case against himself, adding arrogance and blasphemy to his original misdeed. For Job's friends, the problem is easily managed: if Job is innocent, then God is guilty and the world is meaningless. With that at stake, who would not be motivated to condemn Job and find grounds to justify it? (Compare this technique of blaming the victim as a way of reducing the world's evil to non-threatening dimensions with some discussions of the Holocaust, of rape and urban crime.)

Job, for his part, cannot accept that. He knows a lot of things philosophically, as do his friends, but the one thing that he knows experientially is his own innocence. Even if he is not perfect, he is not so much worse than other men, to merit so much worse a fate. On the basis of that unshakable conviction, he must reject the conventional theology of the friends. His resolution is a denial of (B): God is so powerful that He need not be swayed by considerations of justice or of Job's righteousness.

Behold He snatches away and who can hinder Him? Who will say to Him What doest Thou? . . . It is all one. Therefore I say He destroys the innocent and the wicked (Job. 9:12, 22).

And really, speaking theologically, is it not a diminution of God's power to say that by our righteous deeds we can compel Him to treat us in one way and not in another? If an omnipotent God is limited by considerations of justice and appropriateness, is He still omnipotent? Job understands his suffering resulting from the fact that we live in an unjust world. There is a God, but He is a capricious tyrant, too powerful to be moved by considerations of justice and piety.

(This is, in fact, the perception of God in the prose fable which is the book's starting point. God is pictured as resembling an Oriental monarch holding court, rewarding His subjects not for piety but for loyalty. Some derive the name of Satan from the Hebrew verb *shattat*, to run to and fro, and see him as "The eyes and ears of the king," one of the agents dispersed through the land to test the populace's loyalty to the monarch. Note, too, that throughout the book, Job asks that God prove his guilt. He would rather discover that God was, in truth, righteous.)

And what of the author of the book? How does he answer the riddle of human suffering? With what solution in mind did he write his book? It is not easy to fathom the author's answer. He may deliberately have obscured his point to avoid antagonizing some readers, or later editors may have garbled the text, deliberately to moderate its perceived heresy, or inadvertently in the course of copying something that they did not



understand. The author's answer must lie somewhere in God's speeches from the whirlwind, chapters 38–41, but what is it?

Let me suggest that the author's position is the one not taken by either Job or his comforters. The author affirms both Job's goodness and God's goodness, and yields proposition (A), God's omnipotence. Undeserved calamities are, indeed, visited upon the righteous, but not by the will of God. God wants people to get only what they deserve, but He can't always arrange it.

There may be a hint of this position in the text, when God is described as saying

Have you an arm like God? Can you thunder with a voice like His? You tread down the wicked where they stand, Hide them in the dust together . . . Then I will acknowledge that your own right hand can give you a victory (40:9, 12–14).

These lines, which Robert Gordis describes as "God's moving acknowledgement that the world order is not perfect" (Gordis, *Book of God and Man*, p. 119) seem to be saying, "If you think that it is so easy to keep the world straight and just, to keep unfair crimes and accidents from happening, you try it." The sea serpent Leviathan in ch. 41 would represent Chaos, as the formless sea often does (Gen. 1, Jer. 5:22, et al.), and as the Leviathan figure does in other mythologies. It is a difficult task even for God to keep Chaos in check, to prevent it from wreaking harm on innocent people. God stands for justice and order, but cannot always bring it about in His world. His answer to Job would be, in part, "How can Man, without God, do any better?"

Is this solution as radical a departure from normative Biblical theology as it may seem? If all three propositions cannot be simultaneously maintained, and if we posit, as the author does, Job's goodness and innocence (that is, the goodness and innocence of many people whom we see suffering), then we must choose between a powerful God who is not totally just and a just God who is not totally powerful. Which alternative is more in keeping with the overall Biblical outlook? Is the God of Israel to be praised pre-eminently for His power or for his Justice? Is Israel summoned to be a godly people by virtue of its leading the world to justice?

The belief that tragedy does not issue from God's will exculpates God from responsibility for some of the terrible things that happen in His world. But, even more, it spares suffering people who want to believe in God from having to condemn themselves as sinners who deserve their fate. But if God does not cause these disasters, how do they happen? What are the things over which God does not have power?

#### 1) *The Human Will*

If men are free moral agents and, therefore, can be held responsible for their behavior, they must be truly free to choose between good and

evil, between helping and harming. And they must be prepared to bear the consequences of those choices. If they make an immoral choice, choosing to do harm to themselves or to others, God cannot be standing by ready to interpose and prevent them from doing what they chose to do. Our moral freedom to choose, which makes us human, would be meaningless if we were not, in fact, free to do ill.

Even a highly traditional concept of God would have to concede this point. In the familiar but crucial words of the Talmud, *hakol biy'dey shamayim huz mi-yir'at shamayim*, everything is in God's power except for the question of whether Man will do God's will. "How could God let it happen?" Whether the cause of the anguish and outrage is a mugging on a city street or Hitler's sending six million Jews to the crematoria, the answer—not given coldly, but out of a sense of man's responsibility and God's self-imposed limitation on His own power in order to make that responsibility meaningful—would have to be that "God has left us free to choose good or evil. If we don't learn, if we don't mobilize ourselves to stop the criminal, God is not about to do our job for us."

## 2) *Laws of Nature*

Our ancestors found evidence of God in miracles, the temporary and dramatic suspension of natural law: the splitting of the Red Sea, the sun moving backward in its course, fire from heaven on a cloudless day. We tend to find evidence of God in the unchanging nature of those laws, the fact that they are totally reliable and admit of no suspension or exception. If God has built these immutable laws into His world (and how could we live in it if laws of gravity and chemical reaction were haphazard and sporadic?), then He has limited Himself in yet another way, and opened yet another door to possible tragedy.

If a person enters a house of contagious disease, he runs the risk of contracting that disease, irrespective of his reasons for being there. He may be a doctor or a burglar; the laws of Nature operate alike for both. If Lee Harvey Oswald chooses to fire a rifle at President Kennedy, neither the course of the bullet nor the seriousness of the wound would be affected by considerations of Kennedy's moral character or usefulness to the world. It is not God's will that causes the bullet to hit or miss, the wound to be grave or glancing, except insofar as it was God's will to give us a world of natural law which makes no exceptions for nice people.

## 3) *Human Sensitivity*

Strange as it may seem, we increase the amount of tragedy in the world by the way we feel about things. Because we have grown to see every individual human life as unique and precious, we are more deeply hurt by what happens to people around us. Because we have come to expect fairness and happiness, we are more troubled when we don't find it.

Most animals can take the loss of a mate or of young in stride; most people are traumatized by it. That extra dimension which makes us

human sets us up to be hurt by such events which are statistically all too common.

Indeed, it was not so long ago that people would have large families so that at least a few of their children would survive to adulthood. Today, the death of a child is a tragedy that few parents ever get over. There are far fewer deaths of children today, but the ones that do occur are perceived as more tragic, precisely because they are less common and because we have learned to value the individual life.

Consider the following scene: in the delivery room of a hospital, a baby is born with congenital heart defects and other complications which threaten its survival. For days, he hovers on the boundary between life and death. A generation ago, this child would have died at birth, and its parents would have gone home, chagrined but not traumatized. Their sadness would have been real, but limited. Today, through the advances of medical science and heroic efforts of doctors and nurses, the child survives. He grows up, becomes a doctor, a teacher, or a poet. He marries and has children. Then, at age 35 or 40, his congenitally weak heart gives out and he dies. What a generation ago would have been a disappointment to a few people, has now become a major tragedy to a great many more, not because the world has grown more cruel but precisely because it has grown more compassionate.

Since the beginning of human history young people have gone to war, been crippled and killed, children have grown sick and died, armies have plundered cities and ravaged their inhabitants. Paradoxical as it may sound, we could reduce the number of tragedies, and limit the challenge which they represent to God's goodness and power simply by caring less, by being less outraged. But we instinctively feel that, were we to do so, it would be a step backward for religion.

#### 4) *Chaos*

After we have explained much of the world's suffering as resulting, not from God's cruelty, but from human freedom, human sensitivity, and impersonal, unchanging laws of Nature, we still have to face up to tragedies which don't seem to fit any of these categories. We can understand why an engine fails on an airplane, causing a hundred people to die. But we cannot understand why a particular person should have been on that plane at that particular moment. Theologically, Auschwitz is more easily explained than the birth of a deformed child.

Ultimately, part of our answer to the question of the sufferings of good people has to be: for some things, there is no explanation. Things happen at random, for no reason. I can understand the earthquake, the fire, the insane murderer, on the basis of laws of nature and psychology. But I can't understand why one innocent victim rather than another should find himself in their path. This is *tohu vavohu*, Chaos, the disorderly state of primal matter before God imposed His order upon it. And it may be that the sufferings of innocent people at times represent the

residue of Chaos in the world, pockets of *tohu vavohu* still unredeemed by the light of God.

There may be hints of this outlook in rabbinic tradition, and not only in the familiar midrash about Man being God's partner in completing the work of Creation. The 28th and 29th chapters of Numbers, the familiar Maftir reading for the festivals, outline the animal offerings brought on special occasions. And in Num. 28:15, the New Moon offerings, we find a phrase which occurs only there and nowhere else in the Bible, *hattat l'adonai*, "a sin offering for the Lord." In every other passage in the section, the wording is (*hattat*) *l'khaper aleikhem* "(a sin offering) to make atonement for yourselves."

The Talmud notes the anomaly (Hullin 60b) and makes the audacious suggestion that *hattat l'adonai* means "a sin offering on God's behalf." The *lamed* is taken subjectively rather than objectively; the *hattat* is brought *for* God, not *to* Him. And why? "To atone for My having made the moon smaller than the sun." Why did God arbitrarily decide that the sun should be large, bright, and life-sustaining, while the moon was small, dark and insignificant? It was an arbitrary move and, so, on Rosh Hodesh, the moon's holiday, God has an atonement offering brought to the moon on His behalf.

Would we be exceeding our homiletic license to take that Talmudic comment as a statement about all the random unfairness that occurs in God's world? Why should one child, through no merit of its own, be born healthy and talented into a wealthy, education-oriented family, while another equally innocent child is born into a life of illness and slum poverty? Why should one family live out its years in a time and place of peace, and another be ravaged by war? There are no reasons and, on Rosh Hodesh, God, as it were, apologizes to His world for the arbitrariness which mars so much of it. (Might we speculate further that Rosh Hodesh became a woman's holiday in traditional communities, not only because it helped women keep track of their menstrual cycles, but because they identified with the moon, for whom God had arbitrarily decreed a less prominent place in His universe?)

When we have explained away the sufferings of good people as not being due to God's will or their own unworthiness, but as resulting from the misuse of human freedom, the growth of human sensitivity, the inflexibility of natural law, or the lingering residue of Chaos, have we adequately answered the question with which we began? Probably not. We have covered all the squares on the philosophical gameboard, but the lingering pain of the world's unfairness continues to hurt despite all our cleverness.

Perhaps that is because we have been asking the wrong question. Jews are not very experienced in "doing" theology, but when we have ventured it, the genius of Jewish theology has been its habit of focusing, not on the nature of God, but on the nature of Man's God-given obligations to his

neighbor and his world. Perhaps the proper question is not the theological one, "How could God let this happen?," nor the moral one, "What did I do to deserve this?," but the practical question, "What do I do now? If I have suffered a fate worse than I deserve, how do I respond?" Job's friends were eloquent and well-reasoned in their theology. Their mistake was in thinking that their bereaved neighbor, because he spoke of God in such anguished tones, needed learned explanations, when, in fact, what he needed was comfort and sympathy.

We could not have raised the question, "What shall I do now?" without the theological discussion which preceded it. For if our sufferings were, in fact, the result of our sinful behavior, the answer would be "Repent." If our suffering is the will of a capricious God, the answer would be "Take it and keep smiling; it could be worse." But if our tragedy is neither God's will nor God's fault, how does one respond?

In Judaism, one responds with the Kaddish. Precisely because God is a God of righteousness and not a God of Power, we can recognize Him as the source of our outrage at injustice, not the object of our outrage. Precisely because He is not the cause of our grief, because He, too, acknowledges that the world is imperfect and vulnerable to unfairness, we can enlist Him as our ally (or, better, we can enlist as His allies) in the ongoing task of imposing order on the Leviathan of Chaos, until the day when Man and God together bring to its completion the work of fashioning an orderly world.

# *Looking Beyond Peace: The Family at Odds*

MELVIN I. UROFSKY

IF ONE WERE ASKED TO SUM UP THE RELATIONSHIP between Israel and American Jewry in just one word, the answer would have to be *mishpahah*, a Hebrew word meaning family. But it means far more than just consanguineal ties; when one talks about *mishpahah* one conjures up a whole host of emotions and obligations. Family members may fight with one another, may hate each other as well as love, may go at each other tooth and nail yet join together should any outside party try to intervene, may even at times ignore the family without being driven out of it. In the years since the 1967 war, Israeli and American Jews constituted, and we recognized ourselves as, *mishpahah*, demonstrating all of the traits one would expect to find in so varied, opinionated and contentious a family. Yet, despite many differences, we also shared a belief that, from that time onward, our destinies were intertwined, and as we faced our respective and common problems, we did so with an awareness that we do, indeed, constitute one people.

Today these ties are strained, yet still intact. The high hopes of peace raised by Anwar Sadat's visit to Jerusalem in November 1977 and the subsequent meeting at Camp David have permitted members of the family to take a closer look at these relationships. There are deep divisions, not only in Israel but in the American Jewish community, over the wisdom of Israeli diplomatic and settlement policies, and many American Jews have found it difficult to explain, much less defend, the Begin government's erratic twists and turns. Long-simmering problems have surfaced and, although the process is painful, we are at last beginning to discuss them openly.

The problem is that, for more than a half-century, relations between American Jewry and the Yishuv have been based on crises, beginning with the British repudiation of the Balfour Declaration down through the infamous United Nations resolution equating Zionism with racism. We have never really had the leisure of peace to explore our differences; the need to save Jews from Hitler, to establish the State of Israel, to help that state defend itself — these have taken all of our time, resources and energy.

Wars, the ingathering of refugees, the political ostracism from the family of nations — have, indeed, been real crises, and American Jews

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have responded with economic, political and emotional backing for Israel. But the result has been a tradition of unquestioning support for the Jewish state, epitomized by such United Jewish Appeal slogans as "We Are All Zionists!" Those Jewish groups which do not support Israel, such as the American Council for Judaism or the Satmar Hassidim, or who have questioned Israeli policies, such as Breira, have, for all practical purposes, been put into *herem*, excommunicated from the overwhelmingly pro-Israel majority.

This generalized support, however, while yielding rich dividends, has also exacted a price. In order to raise the hundreds of millions of dollars, in order to generate a political support for Israel out of all proportion to American Jewry's being less than three percent of the population, in order to solidify the ethnic and religious ties which do, indeed, bind the Jews of Israel and the Jews of America as one, American Jews have sacrificed their ability to look objectively at Israeli society and policies. Not only do we have a filtered vision of the Jewish State, but the Israelis, in turn, have extremely distorted views and expectations of us.

In June 1975, when Israel was just beginning to recover from the demoralization of the Yom Kippur War, I interviewed former Prime Minister Golda Meir. During the conversation, we spoke about this idealization of Israel and Israelis by American Jews, and whether it was healthy.

It is not good, (she said) Yes, we want to hear nice things about ourselves, but we must also hear the truth. The Arabs, the United Nations, anti-Semities—their criticism we ignore. But American Jews are *mishpahah*, they are our family, and from them we expect not only praise but criticism as well. They should not only support us, that is understood; it is equally important that they help us see what is wrong and how it can be corrected.

Yet this type of constructive and loving criticism has been stifled among American Jewry. We have shied away from any serious examination of the quality of life in Israel, the economic and social gap between the Ashkenazim and the Edot haMizrah, and what many see as religious discrimination suffered by Conservative and Reform Jews under Orthodox clericalism. Many Americans were shocked at the exposure of corruption and the scandals which led to the downfall of the labor government, yet they should not have been. The signs were all there, spelled out in the columns of the Jerusalem Post's international edition. We chose not to see, so that we would be unable to condemn.

This silence has not resulted from any tyrannical thought control by the UJA or Hadassah or B'nai Brith or the ZOA. It is not a silence resulting from fear, but from love. Listen for a moment to a young man tell why he failed to discuss aspects of Israeli society which deeply disturbed him.

Some years ago, (Jerome Grollman wrote), after my first visit to Israel, in a conversation with my father . . . I mentioned a few things about Israel

that disturbed me. My father listened patiently and then responded, "But you wouldn't say anything that would hurt Israel, would you?"

The impact of my father's comment was overpowering. Subsequently, I assiduously refrained from discussing anything that might reflect adversely upon Israel. When that was totally unavoidable, I would invariably apologize and minimize the issue. This, of course, is the posture that most of us have adopted because we are deeply devoted to Israel and are dedicated to its survival and well-being.

Grollman, like most American Jews, wanted Israel to be an ideal society, not just one more little state. He shared the Zionist vision, and he and other American Jews were encouraged in this idealization by Israeli leaders. Ben-Gurion himself said that Jews in the Diaspora have every right to demand that Israel be perfect, that Israel not be *k'khol hagoyim*, like the others. Both Zionism and Jewish history would accept no less.

Looking back, we can now say that we should have been more outspoken, that the Israelis might have welcomed a more open and honest attitude on our part. Certainly American Jews in Israel found their hosts perfectly willing to acknowledge defects in the new Zion, and to discuss these problems with great candor. But the majority of American Jews did not want, or did not care, to hear anything other than the bravery and inventiveness and *huzpah* of the Israelis. They yearned to believe that, somehow, the Jews of Israel had created a better, a more egalitarian, a more Jewish society.

In one area, however, there was something akin to an enforced silence. No American Jew could question Israel's foreign policy insofar as it touched upon the Jewish State's security. Here, too much was at stake — the very survival of Israel — to allow for long-distance second-guessing by the *mishpahah*. They — not we — took the risks; they — not we — would do the fighting and suffer the casualties; they — not we — faced the constant threat of annihilation. American Jewish leaders might confer privately on policy matters with the Israelis, but both sides recognized that, in the end, the decisions had to be made by Israel, and American Jews would have to accede. Part of the great furor over Breira is that it presumed to criticize Israeli foreign policy. It made no difference that within Israel there were many Jews who shared those opinions and dissented from their government's policies. Those Jews were *there*. They — and not Breira — would pay the price if they were wrong.

But if our legacy of crises is an inability to deal critically with the Jewish State, the Israelis have also paid a price in their distorted beliefs about American Jews. They have little, or no, idea of the realities of Jewish life in the United States. They derive their overall view of social and economic conditions in the United States from imported American television shows and from the well-to-do American Jews who travel to Israel as tourists. The general impression is that we are all rich; after all, how else could the UJA raise so many millions of dollars each year. The Israelis also

have great faith in our political power, in our supposed ability to sway presidents and congresses to adopt pro-Israeli policies. Yehuda Avineri, while serving as an aide to Prime Minister Yitzhak Rabin, told me that "Every time there is a crisis, the government is flooded with demands that we call the American Jews, as if we could press a button, that they will exert political pressure and all will be well."

There is another side, which one saw and heard more of in the 1950s and 1960s, but which is still potent today. For American Jews, the Holocaust was a crisis, but, for the most part, we were touched indirectly. For the Israelis, the *Shoah* was a searing personal experience, and many carry not only numbers tattooed on their arms but scars on their souls. The American Jewish community to them is somehow unreal, too well-off, too reminiscent of the smugness and complacency of German Jewry just prior to the rise of Hitler. They see us as living in a fool's paradise, and call on us to emigrate, to make aliyah before it is too late, before the inevitable Hitler arises in this land.

Again, nearly all of this derives from a crisis mentality stretching back over half a century. Both Israel and American Jewish organizations have fostered this attitude. We have contributed so heavily to the Hadassah hospital or to ZOA schools, we have invested so much in Israel Bonds, we have given so generously to the UJA because we have been told over and over again that Israel is besieged and endangered, that the Israelis desperately need our help to feed and clothe and shelter the hundreds of thousands of refugees who have found sanctuary in *Erez Yisrael*, that it is our responsibility as Jews to help our brethren.

And all of this is true. The fundraisers for the UJA and the various Zionist groups have not lied to us. Israel has been, and remains, besieged. Its economy staggers under the loads imposed by social needs, on the one hand, and defense requirements on the other. There has been one crisis after another, one war following another. Nor should we believe that Sadat's flight to Jerusalem and Camp David herald the coming of the Messianic Age; the road to a lasting peace in the region is fraught with many difficulties. Peace will neither come easily nor will it come tomorrow. Even if the political terms are worked out, it will be a generation or more before the heritage of hate and mistrust on both sides can be dissipated.

But while Israel and the Arabs edge toward peace, are Israeli and American Jews prepared to establish a new relationship, to forge new ties binding together *Klal Yisrael*, to confront the many problems before them? Will the American Jewish community still retain its keen interest in the development of the Jewish State without the threat of a crisis hanging over it? Or, once danger begins to recede, will our awareness and sense of unity also diminish? American Jews will not turn their backs on Israel; the history of the past four decades has implanted Israel too firmly in the American Jewish psyche for that. But a study of that same period indicates

that with the passing of each crisis, interest fell off sharply. Membership in Zionist organizations and UJA collections rose in times of trouble and dropped in periods of calm. As one Federation fundraiser frankly admitted, "When blood flows, money pours."

Rather, are we ready to deal with those issues crucial to the fate of the Jewish people, issues which, for the most part, have been acknowledged but not understood, or glossed over to avoid internal friction in the face of a common enemy? Are we now ready to discuss the centrality of Israel in Jewish life, the problem of pluralism in a religious society, the roles of both Homeland and Diaspora in fostering a vibrant and creative Jewish life, the recognition of American needs as distinct from Israeli needs, the proper role of American Jewry in assisting Israeli development, and the matter of aliyah?

The centrality of Israel is a cardinal tenet of Zionist ideology, and affirms the importance of Israel in contemporary Jewish life. In many ways, this is a tradition stretching back 4,000 years, when the Jewish people were promised that "Out of Zion shall go forth the Law, and the word of God from Jerusalem." After the destruction of the Temple and the subsequent dispersion of the inhabitants of Palestine, faithful Jews in their daily prayers always faced toward the Holy Land, and each year concluded the Passover seder by calling for the next year to be spent in Jerusalem.

Today, a Third Jewish Commonwealth has been established, but, just as in the time of the Second Temple, a majority of the Jewish people live outside of *Erez Yisrael*. Of the estimated 12 million Jews in the world, only 3 million live in Israel. Moreover, the Temple, which, until 70 C.E., provided a focus for religious observances, has not been rebuilt and Judaism, as a religion, no longer needs a Temple or a priestly class. Judaism exists wherever there are Jews, and whether they be Orthodox, Conservative or Reform, all agree that the worship of God or the enactment of rituals are equally valid in Brooklyn or Chicago as in Jerusalem.

What, then, does it mean for us to say that Israel is central in Jewish life? Are we to interpret it in religious or psychological or cultural or political terms? In times of crisis we understood exactly what it meant: Should Israel be destroyed, then there was little hope that either Judaism or the Jewish people could survive. No people in one generation could absorb the traumas of both the Holocaust and the destruction of the Jewish State. Israel had become a partial atonement for the Holocaust, and while it survived we knew that we, too, would endure.

But what if we remove the dangers? What, then, does Israel mean? What role can it play in our daily lives, as men and women, as Americans, and as Jews? Does it mean that we owe a form of loyalty to Israel? That Israeli needs are to receive a higher priority than our own? That in Jewish matters Israeli authority is paramount? That we look to the Holy Land for cultural enrichment? Or is it merely a symbolic statement, signifying no

more than our acknowledgement of the historic attachment of the Jewish people to its ancestral homeland?

In another area, are we ready to confront the Israeli religious establishment and demand that in a Jewish state there should be no discrimination against Jews? For thirty years, Reform and Conservative leaders in the United States held their tongues against the blatant prejudice and handicaps faced by non-Orthodox Jews in Israel who were trying to practice Judaism as they saw it. Because of outside dangers, Reform and Conservative rabbis tacitly agreed not to make this a public issue lest it prove divisive at a time when unity was essential. But how much longer will they remain silent when their conversions are not recognized, when their prayerbooks are not permitted to be published in Israel, when the Ashkenazi chief rabbi declares that he can no more conceive of a non-traditional Judaism than he can of hot ice? On the High Holy Days, will they still rise in their pulpits calling for contributions to Israel or for the purchase of Israel Bonds when their own legitimacy as Jews and as rabbis is called into question?

A first step, but an important one, in confronting this issue took place at the 29th Zionist Congress in Jerusalem in February, 1978. At the Congress itself the leading edge in the battle for recognition of the validity of non-traditional forms of Judaism centered on the ARZA delegation and especially Rabbi David Polish, who very eloquently and effectively stated the case for parity of Conservative and Reform Judaism within the Zionist movement and within Israel itself. Much of the spadework, however, had been done earlier, with representatives of nearly all groups, except the Orthodox, participating to some degree. The World Council of Synagogues, for example, had called one meeting attended by representatives of the leading Zionist organizations, and prepared a resolution which Rabbi Mordecai Waxman took to Israel for circulation. At the Congress itself, Rabbi Waxman played an important role in the deliberations of the Committee on Zionist Responsibilities, the first of the committees to adopt an equality resolution. Several such motions reached the floor of the plenum and there, despite strong objections by the Orthodox and their allies in Herut, a majority of the delegates voted that all aspects of Jewish life must be treated with respect and equality, that those who do not subscribe to Orthodox dogma are neither second-class nor second-rate Jews.

This is, however, only a first step and a small one. The Orthodox have been entrenched for decades, and are not about to surrender easily or graciously to the demands of modernity. One sign of how unpleasant this struggle will be came when Rabbi Richard Hirsch spoke to the plenum. On behalf of the Reform and Conservative blocs, he withdrew further resolutions after the issue had been won on the first two votes, and he appealed to the Orthodox not to see this as a defeat for them, but as an opportunity for all of the Jewish people. He declared that Reform owed

the Orthodox a great deal. "You have been our teachers," he said, "now be our friends and colleagues." Although a few members of the Orthodox bloc later admitted that Hirsch had been more than generous and open, during the warm applause that greeted Hirsch's comments they sat stonily, their arms crossed, scowls on their faces.

One can see, therefore, that these are not vague or abstract philosophical questions. The answers will affect our lives and self-perceptions as Jews, as well as the course of relations between us and the Israelis. If we see ourselves as somehow Jewishly inferior to the Israelis, then we concede to them a position of permanent dominance, we admit that Israel is not only central, but paramount, in determining the nature of Jewish life and peoplehood in our times. If we insist upon parity between Diaspora and Homeland, however, we can claim an equal voice and aspire to be full partners with Israel in the great tasks ahead.

And if we in the Diaspora are equal to our Israeli brethren, then it follows that our needs should receive full consideration when we determine how to spend our resources. For all its supposed wealth, American Jewry does not have a limitless purse. It has been affected by inflation and recessions as have other groups, and the ever-increasing federation and welfare fund goals are getting more difficult to meet. When Israel was endangered, we did not stop to speculate, but reflexively put aside all domestic concerns. In 1948, 1967 and 1973 local communities and temples halted building and expansion funds and gave unstintingly to help Israel.

To do so, however, to raise the huge sums involved, we ignored our own needs. We may not have urgently needed a new extension on this community center or a new wing on that temple, but we could ill afford to cut back on educational and social service programs. There are poor Jews in the United States, Jews with family or health problems, Jews suffering from alcoholism or in need of psychological counseling. We learned in the 1970s that the extent of poverty among Jews, especially among the elderly, is much higher than anyone had believed. As one communal worker argued, "Who is to say that it is more important to spend money helping the poor Jews of Tel Aviv than to use it for the poor Jews of Brooklyn?" Domestic communal needs will increase in the future, and will be competing for ever-scarcer resources against Israeli needs. If peace comes, will local communities be able to raise enough money to meet all of these demands? According to some analysts, the answer is no, and then we will face some hard decisions. Unless we have clarified some of these questions, at least in our own minds, the allocation of funds will be a most difficult task.

I would also venture to suggest that, with a relaxation of tensions, American Jewry may not be as willing as it is now to take a hands-off attitude regarding how its contributions are spent in Israel. The bureaucratic inefficiency endemic in Israeli society is something that, to a large



measure, we have ignored, just as we turned our backs on evidence of corruption. After all, the army performed efficiently and, given the security situation, that was all that counted.

But the social problems confronting Israel — the “gap” between Ashkenazi and Sefardi Jews, housing shortages, lack of educational opportunities, growing crime — will now claim priority. They have not been ignored; Israel just has not had the resources both to defend itself and to build a perfect society, and it made the only decision possible: to put its money into the armed forces. It allocated what it could for social services, and depended on contributions from Diaspora Jewry to supplement these programs. All of that money went into non-military spending, but American participation in determining the use of those funds was minimal.

To some extent, that is how it should be. We ought not to be telling the Israelis how to spend such funds; we want, as much as is possible, to avoid creating a donor-client relation. But many people have assumed that the money is spent wisely and efficiently, and have not inquired into the truth of that supposition, for fear of embarrassing Israel. Yet, as stories of mismanagement and scandal creep out, the inevitable questions arise as to whether the sacrifices made here are being wasted. Visitors to Israel can, with little difficulty, hear all sorts of horror stories of waste and inefficiency, in the Hadassah hospital, in Zionist and Jewish Agency programs, or in building developments.

If we are partners, can we, and should we, become more involved in the whole development process? Are we only to raise funds, or to help spend them as well? And if the latter is true, then what will be our proper role in determining priorities? What will happen if our agendas differ?

By now one can see that there are both theoretical and pragmatic questions involved, that the transition from a crisis relationship to one of peace will not be easy. Too many issues have been ignored too long; even if Sadat had not gone to Jerusalem, some of them would have surfaced in the near future. The Conservative and Reform movements, for example, have already created Zionist organizations in order to argue their case from within the establishment, and the UJA has begun pressing Israel to utilize American consultants to facilitate projects and improve efficiency. A Zionist ideological commission was created to work out a theoretical framework of relations between Israeli and Diaspora Jewries.

Now, both the Zionist Movement and the UJA, the two major conduits between Israel and American Jewry, are moving rapidly to lay their respective groundworks for a new relationship. Publicly, Zionist and Federation leaders express great optimism; a UJA newsletter in early 1978 confidently averred that American Jews would outdo themselves in helping an Israel at peace. The constituent organizations of the American Zionist Federation now claim over 950,000 members, and are talking of a new and greater day in Jewish life.

Privately, however, one hears a different tune. The executive di-

rector of a major Jewish Agency has been warning for years that, if peace comes, we will witness an enormous strain between the Israeli and American communities. A member of the Jewish Agency executive has spent half his time worrying about what will happen if the peace negotiations fail and the other half about what will happen if they succeed. UJA officials believe that the initial response of the community will be an increase in funds, but wonder whether it will be possible to sustain a high level of giving. To muddy the waters even further, recent studies indicate an American Jewish community whose commitment to Judaism, as well as its numbers, may drop markedly in the next generation or two.

There is no doubt that serious problems exist and, behind the public relations facade of optimism, American Jewish leaders are concerned. Yet, at the same time, one can be hopeful. Jews are a battered people and need the respite of peace, even a peace which will bring its own difficulties. We need a time when there will be a surcease from killing, when the volume of anti-Semitism in the United Nations and elsewhere can be subdued. And there is a challenge to be met as well, an opportunity to work out ties between a prosperous Diaspora and a pioneering Homeland which will foster a rebirth of energy and creativity among the Jewish people.

Both the United Jewish Appeal and the Zionists have new challenges ahead of them, and their ultimate success depends on how well they respond. For too long they have operated on the crisis mentality, ignoring the future in order to meet daily problems. Now they can devote more of their attention to what both recognize as their prime mission — the continued growth and survival of the Jewish people. There has been a significant move in this direction especially by the UJA's Young Leadership Cabinet which sponsors a variety of educational and training programs.

The Zionists now have their great opportunity before them, an opportunity which may never come again. They have always had a more developed ideological framework than did the Federations. It was, after all, the Zionist movement which created Israel, and Zionist philosophers have speculated for more than a century on how a Jewish state would relate to, and affect, the Diaspora. In the United States, both Horace Meyer Kallen and Mordecai M. Kaplan wrote extensively on the uniqueness of American Jewry and the special ties which could connect it with a Jewish Homeland.

The Zionists, in the days of Louis Brandeis, Stephen Wise and Abba Hillel Silver, dominated the American Jewish community. They were the ones with the vision, the dream of recreating an autonomous Jewish Homeland in *Erez Yisrael*. They succeeded in making that dream a reality, but the economic needs of the state led to the emergence of the Federations and welfare funds as the principal links between the two communities. The UJA, however, never developed a sustained philoso-

phy beyond the old Talmudic dictum that "all Israel are responsible one for the other." It is a noble sentiment, well suited to an age of Jewish crises, and American Jewry responded appropriately nobly to it. Now we need more; we need a *Weltanschauung*, a world view, and perhaps Zionism can provide us with it.

We all pray for a lasting peace; but it must be recognized that even if the political steps are agreed upon, it will take time to undo the work of decades of mistrust. Similarly, it will take Israeli and American Jews time to learn to live and work and co-operate together outside of a debilitating crisis atmosphere. There will be problems, there will be achievements and, above all, there will be opportunities. We will see no quick or easy solutions, but, if we are to maintain the idea of *Klal Yisrael* we would do well to heed the words of Rabbi Tarfon: "The day is short and the work is great. It is not thy duty to complete the work, but neither art thou free to desist from it."

# Israel

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# *Identity Problems in the State of Israel*

ELIEZER BERKOVITS

## I.

### 1.

RECENTLY, THE IDENTITY PROBLEM OF THE Israeli came again to my attention in two rather paradoxical yet similar manifestations. A friend of ours and her husband, both products of leftist and utterly anti-religious *kibbuzim*, were in the United States for a limited period of continued professional education. In a recent letter, referring to *Pesah*, she wrote:

The Festival was for us an exciting experience. We saw the movie "The Holocaust." That introduced us into the atmosphere of Judaism. Passover we celebrated with a *Jewish* (our italics) family. Then came Independence Day (of Israel) and we marched together with other Jews. We realized for the first time that we are part of a great people and so is the State of Israel.

The same ignorance of Judaism, the same estrangement from everything Jewish, a similar discovery of the unknown Jewish people are all revealed in the words of an Israeli writer in an interview that was published in the Supplement of the daily newspaper, *Ha'arev*, on May 12, 1978. Speaking of his own life and that of his generation he said, among other things:

We were not Jews, but Israelis. The word "Jew" was hardly ever heard. We were courageous, Sabras, different. When one of us travelled in a foreign land, he would come back, saying proudly: "They didn't notice at all that I was a Jew."

For this man, the meeting with other Jews was the most severe trauma of his entire life. Where did he meet the other Jews? Not in Israel. But meeting some of the Jewish children in Europe who survived the Holocaust caused him to realize that he was, indeed, a Jew. What kind of Jew? "The truth is," says he, "that I cannot say what this Jewish identity of mine is."

The paradox, of course, is that Israelis have to leave Israel in order to discover that they are Jews. But what kind of Jews and why? Mostly, they themselves do not know. There is, indeed, a severe identity crisis in Israel, so severe that a majority of Israelis are not even aware of the "existential vacuum" (to use Frankl's terminology) in which they live. This identity problem of Israel is, unfortunately, the direct outcome of a basic mistake of modern Zionism — "normalization." The cause of the traumatic experience which overcame that Israeli author when he was "meeting with Jews," remnants of European Jewry, was probably due to the fact that for the first time in his life he realized that, after all, we are not a normal

people. There was a collapse of the dream-world in which he had lived as an Israeli non-Jew.

To become a normal people was the goal which meant, of course, to become like all the other nations. This involved, first of all, looking at ourselves from without, i.e., judging ourselves, Judaism, and Jewish history by values assimilated from alien cultures. Characteristic of this kind of self-judgment with alien eyes is the rather well-known (in Israel) short story by the distinguished Israeli writer, Hazaz, "*HaD'rashah*" (The Homily), in which a young man delivers a kind of secular sermon. The gist of his *d'rashah* is that the Jews have no history. They have been, most of the time, objects of history. Their history is that of the nations in the midst of which they have lived. Their history has been made for them by others; it is imposed upon them. It is all passivity. And, thus, one reaches the conclusion that the Jews are not really a nation. Only now, in the State of Israel, are they made into a nation.

All of this is true if one looks at the Jewish people from without; if one judges the Jews by a concept of history taken from others. One looks at the history of the nations and concludes: "That is not us." Indeed, it is not us. But is there, because of that, no *Jewish* history? Is it, indeed, all passively endowed history prescribed by others for the Jew? The truth is that, throughout the exile of the Jewish people, there were always options available to the Jew. It was already noted by Yehudah Halevi in his *Kuzari* (the end of Part I). In the lands of their exiles all that Jews had to do in order to join the ruling majority was to repeat a few words, known as the Creed of the various Churches, and thus become Christians or Moslems, as the case might be. At the cost of incalculable self-sacrificial commitment to the truth of their own being they rejected these options and made their choice in supreme freedom of spirit and will. If Aḥad Ha'am made the comment on the assimilated Jew of the enlightenment period that he lived in subjection in the midst of freedom, one may say of the Jewish people prior to that period that, on the whole, they lived in independence in the midst of subjection. It was a form of self-affirmation, of authenticity of being, without comparison in the history of the nations.

The argument also runs: The Jews had no country of their own, no government, no armies; ergo, they were no nation. Again, this is true if one looks at us from without. But what do we find within? Scattered all over the world, the Jews were *one*. Except for minor local variations, they all lived by the same values, pursued the same life style. Wherever Jews met, they encountered each other in mutual recognition. Notwithstanding language differences, they all prayed in the same tongue, according to the same order and, essentially, the same prayers; observed the same holy days; observed the same laws. The literature of the various communities was Jewish literature for all. The Talmudic as well as philosophical works written in any one community were meant for all communities. They had no government, yet they governed themselves. For centuries Jews lived by

an internal autonomy. The rabbinical courts were a generally recognized and effective judiciary. The communities were guided only by elected committees. The *Takkanot Hakahal*, communal ordinances, were the laws that prescribed order in all matters affecting the material as well as the spiritual-religious well-being of the communities. Whereas in the rest of the world general education for all social levels of the people was introduced relatively late, the institution of general education was in existence in all the lands of Jewish exile and had an uninterrupted tradition going back to Talmudic times. In all of the communities there were, for the poor and the sick, welfare services whose historic continuity paralleled that of the educational system. All of this internal autonomy was maintained without state power; it required no police enforcement. On the whole, it functioned by the moral force of a self-imposed discipline, unique in the entire history of the human race.

Certainly, there was Jewish history of the Jew's making, but a different one.

Certainly, we are a people, though unlike the other nations. Not a normal people? Looking at the history of the "normal" nations one need not be embarrassed by the qualification.

## 2.

Zionism's striving for "normalization" meant a misreading of Jewish history. Thus, it destroyed the Jew's self-understanding. Secondly, "normalization," knowingly or unknowingly, implied the rejection of Judaism and required the re-shaping of the Jewish people in an alien image. But this precisely is impossible. A nation may grow, develop, renew itself from its own resources of the mind and the spirit, in a continuous process of loyalty to its own identity. But a people that refuses to understand itself from within, that cuts itself loose from the meaning of its historic course, that has no respect for its historic identity, is bound to fail. National identities cannot be exchanged; neither can a people turn its back on its past and start from scratch. There are no such beginnings in history. The image, therefore, in which this people was to be reshaped was essentially a negative one, a shattering of the historic molds.

Israel was built with rebellion. This was, in a sense, necessary, and worked well for the founding generation. The giants of that generation were all children of the Judaism of the ages against which they rebelled. H. Brenner testified about himself that in his youth he had a thousand double pages of the Talmud in his head. The same Brenner would also write: "I live in shame as I recall God's loving kindness that keeps me alive every minute and that yet I rebel against Him."<sup>1</sup> His writings are rich with Biblical and Talmudical phraseology and thought associations. That was a generation that had its identity roots completely in historic Judaism. The

1. From "B'Horef," *Kol Kitvei Y.H. Brenner*, Vol. I, p. 26.

emotional quality of its being came from the *shtetl*, the pattern of its intellectual expressions had been largely determined in the *Bet Hamidrash*. That founding generation came because they returned to the land of their fathers. Thus, A.D. Gordon would write of the situation in the land:

We all agree that our position is dangerous. Our fate hangs by a hair between life and death. Yet, we are unwilling to confess to ourselves that our salvation will come only from a giant, almost miraculous effort of the will, so that in a certain sense we may say, together with the masses of the people, that we shall be redeemed and saved for eternal salvation only by way of a miracle.<sup>2</sup>

This rendering into English is somewhat awkward because Gordon uses classical Jewish messianic terminology. The power of the faith that moved him and his contemporaries was essentially a manifestation of the force of Jewish messianic belief in return, an authentic transformation of that belief in a new context, in a new historic situation.

Notwithstanding their rebellion, their values had their origin in the "old home," though they were applied in a new context and, thus, often became enriched. Let us recall here Gordon's idea of nationhood. He writes:

The nation as a "collective individual" is a tearing animal. There is not another one like it for cruelty and meanness among all the wild beasts of prey. Acting as a nation, it is not only permitted to tear, to kill, to rob, to steal, to lie, to forge, to defile, to commit all kinds of abominations, but such acts redound to the nation's fame and glory, for which it is worthwhile sacrificing one's life.<sup>3</sup>

That is what Gordon sees as history and nationhood, whose absence among Jews is so deeply regretted by Hazaz' hero in "*HaD'rashah*". When we read Gordon, we immediately feel the passion of the Jew behind his words. His ideal is, what he calls, *Am-Adam*, a phrase one can render only awkwardly as "Nation-Man." Behind his Hebrew *Adam* one hears its Yiddish equivalent, *Mensch*, not just in the sense of a human being, but a humane human being. *Am-Adam* is a humane nation. Gordon also puts it this way:

Where there is no humane nation, there will be no humane human, no humane individual either. And who should more insist on this than we, the children of Israel! We were the first to declare that man was created in the image of God. We have to go further and say: The nation has to be made in the image of God. Not because we are better than the others; but because everything (in human experience — [our addition]) that demands it we have endured and suffered on our own shoulders.<sup>4</sup>

There is no "normalization" here, but complete identification with all Jewish history. There is also here a going further and beyond the Old

2. From "*Mikhtavim U'Rshimot*," *Kitvei A.D. Gordon*, pp.32-33.

3. "*Am-Adam*," *Ibid.*, p. 260.

4. *Ibid.*, p. 160.



Word. But what is spoken is the Old-New Word of Judaism.

All this was rebellion within the continuity of Jewish history. It was internal, Jewish rebellion, carried out with an inherited idealistic fervor. But, alas, all this is no longer. The rebellion of the founding generation is long past. The Sabra may well live in existential frustration, but he is not a rebel. He has nothing to rebel against. It is worth noting how Berl Katzenelson, one of the outstanding leaders of the early labour movement, who was also the founder of the *Histadrut*, expressed his misgivings regarding the future. These are his words:

That one generation should rebel against another is natural. That, however, one generation should tear itself loose from another, which then becomes like one that never existed, is a special curse from our *tokhehah* (the portion in the Bible that describes the punishment that will befall the Jewish people for not keeping the Torah) . . . A generation that does not know its father, does not know itself; it does not know what it has inherited and against what it rebels.<sup>5</sup>

Unfortunately, the present generation in Israel does not only not know "the father" of whom Katzenelson spoke, who is its "grandfather;" it does not even know its own fathers, i.e., Katzenelson, Brenner, Gordon and others in the same category. The founders, who — in spite of their rebellion — were heirs, did not succeed in becoming ancestors. This was succinctly expressed by one of the *vatikim* (a veteran; in this case, a *kibbuznik* of the old generation), whose words were quoted in an article in the literary publication of the *kibbuzim* (communal settlements, mainly secular and — often — anti-religious), *Sh'demot*. Speaking of his son, the man remarked: "He is not a Jew. I wished he were, at least, a socialist."<sup>6</sup>

This son is no exception, not even in the *kibbuzim*. Outside of them, in the cities, such souls are much more numerous. Nature does not tolerate a vacuum; much less does the life of a people. The spiritual and value vacuum caused by a Zionism without Judaism has been filled by a crude Levantinism and a vulgar imitation of the cheapest forms of American materialism. In the earlier days of Zionism one was apprehensive of the dangers of national assimilation. One has now learned to understand that only a minority may become meaningfully assimilated. There is a great deal that is objectionable in contemporary America. But a minority has the option to assimilate itself to what is positive and noble in the American tradition and civilization. The same is true of any minority in the midst of any other historic culture and tradition. Not so a majority that lives in its own land. It has nothing to which to assimilate itself. It must be itself; it must live by its own spiritual resources lest it become the inheritor of the cultural refuse that, in these days of easy worldwide communication, reaches its undiscerning and uncritical populace in large and intense

5. From *Kol Kitvei Berl Katzenelson*, Vol. VII, p. 163.

6. *Sh'demot* (Winter, 1975).

doses from the international conglomerate of disintegrating value systems.

3.

In the aftermath of the Yom Kippur War there has been, in limited circles some awakening to the nature of the problem. Questions have been asked: "Why Israel and for what?" If one is an Israeli outside of the historic continuity of the Jewish people and of Judaism, a people without a past, without Jewish ideals, cut off from anchorage in the historic culture and tradition of Judaism, separated from the source of its creativity, then, indeed, what is Israel for? Why the never-ending struggle, the wars, the internal as well as external problems, the eternal tension of a little country under continuous siege? Under these circumstances, nothing is more natural than the large emigration of Sabras in search of greener and quieter pastures. What is more difficult to understand is why so many of them, assuming that they do have the opportunity to leave, remain: Is it some form of macabre blood-and-soil nationalism?

Some mean to meet the problem by what they call a "return to the sources." What they actually engage in is a form of literary activity of looking for universalistic, humanitarian "gems" in the Midrash and Talmud. We doubt very much that this kind of literature can fill the place of a people's lack of faith in its historic destiny. The news that the old-time rabbis were not always old-fashioned will provide neither goal nor direction for the Israeli masses, and certainly not a disciplined will and commitment to pursue a new and different course of value-determined behavior. Ideas are not ideals and for "quotations" to be effective one needs foundations.

## II

1.

The Israeli author, to whose interview we made reference at the beginning of this essay, also declared: "Yes, I seek my Jewish identity. However, I cannot find it here." In the context of the interview he was saying that the search for his Jewish identity among the Jews in the United States, where he had spent some time previously, was much more promising than in Israel. Here, of course, is the acme of the paradox. Unfortunately, from the Israeli vantage point, it is not altogether unjustified.

This takes us to the other aspect of Israel's identity problem, the religious sector in Israel. Needless to say, the majority of religious Jews, rather like the majority of the secular ones, are hardly aware that such a problem exists for them, too. Who can be more sure of his Jewishness than an Orthodox Jew living in the Holy Land of his fathers! The question is, however: Is this, indeed, the Jewish identity that the Torah intended for the Jew living in a Jewish State? Is this, indeed, the Judaism required by the Torah for the Jewish people in its regained homeland? In view of the

abysmal ignorance about what Judaism really is, the majority of Israelis see Judaism in the image in which it is presented to them by the rabbinate, the heads of the *Yeshivot*, the religious establishment. One may be extremely critical of Israeli secularism, as obviously this writer is, and yet realize — with an aching heart — that this rabbinate, these teachers of the Torah, these guardians seldom command one's respect. On the whole, but for a very few exceptions, they are incapable of conveying the meaning and relevance of Judaism to the people in the context of this completely new reality of statehood.

The image that is thus presented makes it easy for the secularist intellectual to produce his "straw man," call it religion or Judaism, and knock him down with a great deal of self-assurance, using the outworn arguments of a 19th- or even 18th-century "enlightenment." The image that is presented is essentially that of *galut* Judaism and of the *galut* Jew. It is so unimpressive because it is placed in the altogether wrong setting. *Galut* Judaism, as the only possible form of Judaism in the *galut*, has its validity. Transferred to the condition of Jewish statehood it becomes inauthentic. In order to explain our meaning it will be necessary to recall some of the essential qualities of classical Judaism.

## 2.

Religions are usually founded by prophets; Judaism was founded by a father. At the beginning of Judaism stand patriarchs; the prophets teach in historic realization what was intended by the fathers. Abraham did not establish a church; his concern was not with the salvation of souls. He was a father, concerned with the life of his children. God says of him: "For I know him, that he will command his children and his household after him, and they shall keep the way of the Eternal, to do justice and judgment" (Genesis, 18: 19). A family whose ideal was to observe the way of God, to act justly and righteously, became the Jewish people. Judaism is not a salvationist religion, but the way of life of a people, lived with the realization that all life is forever in the presence of God. God is the eternal witness. The words of the Psalmist: "Let me walk in the presence of God in the land of the living" (Psalms, 116: 9) are explained by Rabbi Yehudah: "The land of the living," i.e., the market places" (T.B. *Yoma*, 71/a). It is in the midst of life that Judaism is to be realized.

The task to live with the awareness that all life is in the Presence is all-comprehensive. It includes man's relationship to God as well as to his fellow men. It is not only a matter of creed, but essentially one of deed. It has its ramification in all the fields of human existence: spiritual as well as material, social and political, economic and cultural. It was not to be limited to a church or a religious sect, but had to become the life purpose of a people. Only a people might be capable of such a comprehensive realization of an all-embracing life purpose. Therefore, the normal, natural habitat of Judaism is a land of the Jews, *Erez Yisrael*. Outside of *Erez*

*Yisrael*, in all the habitation of the Jews, the structure of society, of public life, the social, economic and political order are determined by cultures and civilizations that are not Jewish, that are alien, and often inimical to Judaism. Thus, wide areas of Jewish teaching, especially as they found their formulation in halakhah, in Jewish law, have no possibility of application. For instance, wide sections of the *Hoshen Hamishpat*, dealing with the judiciary, with civil and criminal law, or important parts of the *Eben Ha'ezer*, containing family law, husband and wife relationships, remain a mere subject of study, a matter of theory, without any practical application. Judaism is then reduced, halakhically, to a code of *muttar* and *assur*, a regimen of the permitted or the forbidden. It was meant to be the essence of the realization of the life purpose of the Jewish people. In the Dispersion, not only the Jewish people but Judaism, too, is in *galut*. Congregations, synagogues, temples can realize the goal only fractionally — services, observances, the family, the Jewish child, — but life in its comprehensive fulness is not their domain. Only the people, in control of its own national existence, is capable of realizing the inclusive life purpose of Judaism.

3.

The rabbis taught: "There is no Torah like the Torah of *Erez Yisrael*" (*B'reshit Rabba*, 16). But why so? If it is Torah, it is Torah everywhere; if it is not, it is not Torah anywhere. How is the quality of Torah understanding tied to geography? If the quality of Torah understanding depended only on study, geography would not matter. However, Torah understanding is inseparable from the range of Torah application. In the *galut*, Torah application is limited essentially to the *r'shut hayahid*, the private domain, the individual, the home, the congregation. Only very little room is left to Torah in the *r'shut harabbim*, the public domain. We may better appreciate the importance of the fulness of Torah application to actual life situations as we recall that the *halakhah*, that is the discipline of such application, was originally *Torah she'ba'al peh*, oral Torah. Rabbi Yosef Albo, in his *Sefer Ha'Ikkarim* (3/23), explains the need for the "Oral Teaching" in the following manner:

It is impossible that the Torah of God, blessed be He, be complete in such a way that it should be adequate for all times. For the particulars that are changing in the affairs of men, in judgments and matters effected, are too many to be contained in a book. For this reason Moses, on Sinai, received, orally, general principles that are concisely hinted at in the Torah, so that with their help the teachers of each generation may reach their decisions regarding those new particulars.

Halakhah was meant to deal with the specific life situation. But that situation is forever changing. The new, the unexpected in the human condition is the raw material with which halakhah has to contend. It looks at the situation, it considers the basic principles and then decides. Now,

the situation in the *galut* is essentially non-Jewish; it is brought about by the changes and developments in the midst of a non-Jewish reality. When, then, halakhah is asked to speak its word in a new situation, that had not previously existed, an unfair burden is placed on the halakhic potential. The question put to it is: How to order Jewish life in the midst of changing non-Jewish situations? It can be done. And it has been done for many generations with determination, heroism, and sacrifice. But it is not the *natural* function of halakhah to teach this.

It is, for example, the natural function of halakhah to teach the observance of the Sabbath in all kinds of changing human situations. But the Torah was given to the Jewish people with a view to their living in *Eretz Yisrael*, with the power to determine the rhythm of the working week. It is, of course, possible — and Judaism considers it an obligation that has been accepted by the Jewish people for its entire history — to observe the Sabbath even in the *galut*, but that is not the natural setting for the Sabbath. Problems of Sabbath in Exile, for instance, how to make a living in the midst of an economic order that rests on Sunday, are not genuine Sabbath observance problems, but part of the much wider issue: how to be a Jew in the not-originally-intended and unnatural setting of Jewish dispersion. The original function of the halakhah is, thus, adulterated, when it is forced to contend with the ever-changing “particulars” of a non-Jewish reality in the midst of which Jews happen to live.

As a result, halakhah is negatively affected in two directions. It cannot shape and guide the specific time-conditioned situation, and it must defend itself, it must defend Jewish existence, against the pressure and inroads of the “outside world.” In the *galut*, halakhah becomes a rampart and yet, as the word itself indicates, it was intended to be a pathway. In the *galut*, halakhah is Torah managing Jewish existence in spite of the nature of a form of life and culture that is alien to the spirit of Judaism. Halakhah on the defensive becomes stunted in its creative capacity. This has far-reaching consequences for its very nature. Halakhah as the application of the general principles to the ever-new particulars, once again to use Albo’s formulation, needs the challenge of those “particulars,” the challenge emanating from the contemporary situation of the Jewish people. It needs the challenge of a situation that is Jewish, not because it is endured by Jews but, in its physical and mundane structure, is the work of the Jewish people. That, alone, is the authentic challenge to halakhah. Only in response to this challenge, in this confrontation, can halakhah become creative, formulating the eternal word of the Torah for the new hour, the hour of the new “particulars.”

4.

All this, of course, is possible only in a state of the Jewish people. This is the meaning of the uniqueness of *Torat Eretz Yisrael*, of the Torah of the Land of Israel. In the State of Israel, Albo’s “new particulars” are Jewish.

They are Jewish raw material for halakhah to work with. The *galut* attitude of defense is no longer valid. One has to go out and meet this new challenge and show how this new Jewish reality is to be structured meaningfully and effectively by the creative power of halakhah. One has to leave the ramparts built around the "private domain" of the congregation, the Jewish school, or the home in *galut* and restore halakhah to its original function as a pathway for the "public domain," for the life of the Jewish people in a Jewish state. To mention just a few areas: halakhah in the State of Israel ought to concern itself with the social gap, with questions of economic honesty and fairness, with issues of the work ethos and problems of labor relations, with medical ethics, even with such matters as meaningful driving laws in the cities and on the highways and with adequate enforcement.

How far removed we are from a proper understanding of what Torah and halakhah are about cannot be more strikingly illustrated than by the one-sided educational ideal of the *yeshivot* in Israel. Most of them frown on what is called *limudei hol*, secular learning. But a state needs an army, an economic system, health and welfare services, technology, scientific research, etc., etc. If the Torah desires a Jewish people living in its own land, it must also desire soldiers, physicians, scientists, architects, engineers, policemen, social workers, etc., etc. In a Jewish state, halakhah cannot refuse responsibility for the effective functioning of the entire body politic. This requires, however, a new educational philosophy, which would lead, in turn, to new ways of learning Torah and Talmud and new ways of teaching both.

The new reality of the State of Israel demands an understanding of what halakhah is about in its original, classical essence. Perhaps one of the major issues to which such new understanding ought to pay attention is the fact that in a state of Jews one is not dealing with congregations but with a people. It is relatively easy to manage the congregational structure. Congregations have their declared ideologies. Those who subscribe to them are in, those who do not are outside. One may lament the attitude to the outsiders, but one need not be concerned about them very much. A people, however, is always within. Halakhah, in its authentic function, must address itself to the Jewish people and not to members with congregational ideologies. What we have in Israel today is a *galut*-conditioned understanding of halakhah and its application to a *galut* reality that was, but is no longer. It is the halakhah of the *shtetl*, not the halakhah of the State; it is not *Torat Erez Yisrael*.

It is this that robs teachers and interpreters of convincing authority and respect. In the *shtetl* they were part of the community, deeply involved in its life and problems. In Israel they live in estrangement from this new reality of the Jewish people. The psychological effects of such alienation are often responsible for a behavior that is deeply regretted by many Jews to whom the dignity of Judaism is dear.

There is widespread secularism in Israel today. But there is also an awakening to the truth that, especially in Israel, secularism is leading the people into a spiritual and moral dead-end street. There are many who search for a Jewish way. The people will not be the Jewish people and the State not a Jewish State without Judaism, and Judaism will not be true to itself without finding the way to the people.

Alienation from Judaism is the source of the "existential vacuum" among the secularists. Alienation from the new reality of Israel's statehood renders questionable the authenticity of the image of Judaism that has been transferred from the *galut* by the religious establishment.

And yet, this is the land and this the people. It is here, in the land of Israel, that the destiny of all Israel will be decided for all generations to come. Thus, the problems of this land become the problems of the entire Jewish people the world over. Their solution is the responsibility of us all.



Cantor Jacob Gottlieb (5th from left) and choir circa 1894

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# Was Spinoza A “Jewish” Philosopher?

ISAAC FRANCK

IN SPINOZA'S ONSLAUGHT ON JUDAISM, HIS principal vehicle was his book, *A Theologico-Political Treatise* (referred to below as *The Treatise*). The “Syllabus of Spinoza’s Errors” against the Jews and Judaism, contained in that book, was laid bare in some detail in the preceding issue of this journal. A heavy burden of guilt was shown to rest on his shoulders, and the personality portrait of Spinoza that emerged in our exposition is a less admirable one than the portrait of him handed down to us by the Romantic Imagination of the late 18th and the 19th centuries. It would thus seem that, if Spinoza and his *Treatise* had bequeathed to us only his calculated calumnies against Judaism and the Jewish people, we would have been amply justified, indeed morally obligated, to dismiss him as nothing more than a traitor and slanderer.

But let us suppose that these calumnies and diatribes were purged from *The Treatise*; manifestly a substantial work of no minor significance would still remain. Suppose now that we sought to answer the question posed in our title, “Was Spinoza a Jewish Philosopher?,” but this time by applying the three criteria suggested in our previous essay to Spinoza as the author of the *Ethics*, the *Short Treatise*, the *Emendation of the Intellect*, most of his *Letters*, and the purged *Treatise*. What would our answer be?

It needs to be noted in the first place that, of course, not all of the criticisms or polemics against Judaism in the *Treatise*, either among those reviewed in the “Syllabus of Spinoza’s Errors,” or among those left unmentioned, are inherently reprehensible, deplorable, or unjustified. With some of these criticisms many Jewish thinkers, loyal and devoted Jews, will agree (*va’ani hakatan b’tokham*, myself, in all modesty, among them). The criticisms are reprehensible in the context of *The Treatise* because, while they are directed against putative flaws in Judaism, these very same flaws, when manifested in Christianity, are simply not attacked by Spinoza, or are reinterpreted by him in a favorable light without supporting evidence. They thus exemplify the double standard pointed to in our earlier essay.

Moreover, it must also be noted that, if we apply the second of the proposed three criteria, namely,

the philosopher’s intent to contribute to the advancement of Jewish thought, affirmatively or through criticism; his philosophical ideas and doctrines . . . having been addressed principally to an audience of committed Jews . . .,<sup>1</sup>

1. Cf. Isaac Franck “Spinoza’s Onslaught on Judaism,” JUDAISM, 28, 2 (Spring 1979): 180.

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there would certainly be strong and cogent reasons for concluding that Spinoza was not a Jewish philosopher. Whatever may have been his hopes and intentions before the excommunication, certainly afterward he did not address his writings to a Jewish audience. There is no known evidence in any of his work or in his correspondence that he had any desire to contribute to the advancement and improvement of Jewish thought. He displayed no interest in the survival and continuity of Judaism and of the Jewish people, except for this almost parenthetical remark in *The Treatise*:

I would go so far as to believe that . . . they (i.e., the Jewish nation) may even, if occasion offers . . . raise up their empire afresh, and that God may a second time elect them.<sup>2</sup>

But this is no more than an aside, uttered without any discernible enthusiasm or even concern, and hardly justifies the elevation of Spinoza to the pantheon of pioneers of modern Zionist thought, as some have tried to do. He became so completely estranged from Judaism, that his universalist utopia entailed an assimilationist program leading to the disappearance of Judaism. *As to the Jewish people*, Leo Strauss (again associating himself with Hermann Cohen) said that while

Spinoza may have hated Judaism, he did not hate the Jewish people, and thought of the liberation of the Jews in the only way in which he could think of it, given his philosophy.<sup>3</sup>

However, even if we were to follow Strauss in his less than zealous or cogent apologia for Spinoza here, the "thought of liberation" that he ascribes to Spinoza could mean only two possible expectations, "given his philosophy": either some vague, speculative, utterly parenthetical "Zionist" type of solution, or the absorption of the Jews into the general population. Either expectation (if Spinoza really gave them any thought) would, in fact, have been an evasion, inasmuch as it would have obviated for Spinoza any motive, and absolved him of any obligation, to contribute to the advancement of a theory or philosophy of Jewish group existence.

But if, his intentions-or, rather lack of intentions-notwithstanding, we concluded, nonetheless, on the basis of other criteria, that Spinoza *was* a Jewish philosopher, then, clearly, by virtue of his failure to fit the second of our criteria, we would have to call him a *Jewish* philosopher *malgré lui*, in spite of himself, rather than by intent or free choice.

What remains, then, is to try to apply the other two suggested criteria: *the first*, did the philosopher's inquiries, ideas, and doctrines arise out of the matrix of Jewish thought and experience? And *third*, did his inquiries and ideas contribute, in fact, to the advancement, enrichment, or clarification of some of the concepts, ideas, and doctrines in subsequent Jewish thought? The application of the first of these criteria can be disposed of rather quickly. One need only read H.A. Wolfson's classic two-volume

2. *Treatise*, Chap. III, p. 56.

3. Leo Strauss, *Spinoza's Critique of Religion*, Preface, p. 21.

study, *The Philosophy of Spinoza*,<sup>4</sup> to see that, in the treatment of almost every one of his major ideas in the *Ethics*, the *Short Treatise*, and the *Emendation of the Intellect*, whatever his other philosophical antecedents may have been, Spinoza was also reflecting and responding to ideas in the Hebrew Bible, Rabbinic texts and teachings in the Talmudic period, and the long expanse of philosophical thought in Judaism, from Philo to Leo Hebraeus, from Saadia to Crescas and Albo. Earlier scholars, e.g., M. Joel in the 1870s<sup>5</sup> and Jacob Klatzkin in the early 1920s<sup>6</sup> were among the pioneers in exhibiting the deep roots of Spinoza's thought in the mainstream of Judaism. Moreover, *The Treatise*, ignoring the defects dwelt on earlier, is itself concerned with, and is a response (too often a flawed and saddening one) to, problems that had agitated Jewish life and thought very deeply and for many centuries, e.g., the nature of the language of Scripture, the problem of miracles, the meaning of prophecy, religious faith versus superstition, the meaning of the election of Israel, ethical laws and ceremonial laws, the authorship and the authority of the *humash*, the relationship of faith to reason, the relationship of theology to philosophy, the freedom of intellectual inquiry, the freedom of religious worship and observance. If we now add to this abbreviated catalogue even a very brief and random sampling of other technical metaphysical and epistemological issues dealt with by Spinoza in the *Ethics* and in other works, and also indicate how his treatment of them reflects earlier Jewish thought and thinkers, we may find sufficient ground for a tentative conclusion.

1. Spinoza's classification of human knowledge into three (or four) kinds, clearly echoes similar attempts at classification in Saadia's *Beliefs and Opinions*,<sup>7</sup> in Maimonides' *Guide*<sup>8</sup> and his early brief treatise on *Logical Terminology*,<sup>9</sup> as well as in the work of later medieval Jewish philosophers.

2. Hissketch, in the *Emendation*, of how the human mind developed its instruments of thinking from the simplest to the more complex stages, in which he uses as analogy the problem of how the first hammer was made since it, in turn, required another hammer with which to do so, etc., seems interestingly to reflect the concern of some of the ancient Rabbis about *zvat bizvat assuyah*,<sup>10</sup> the genesis of the first pair of pliers that required other pliers with which to make them.

4. Harry Austryn Wolfson, *The Philosophy of Spinoza* (Cambridge, Mass.: Harvard University Press, 1934), 2 Volumes.

5. M. Joel, *Zur Genesis der Lehre Spinozas* (Breslau: 1871).

6. Yaacov Klatzkin, *Barukh Spinoza: Hayav, S'farav, Sh'itav* (Barukh Spinoza: His Life, Books, System), (Berlin, 1923; reprinted Tel Aviv: Massadah, 1954).

7. Saadia Gaon, *The Book of Beliefs and Opinions*, tr. by Samuel Rosenblatt (New Haven, Conn.: Yale University Press, 1948), pp. 16-18.

8. See Leon Roth, *Spinoza, Descartes and Maimonides* (Oxford: The Clarendon Press, 1924), Chapter IV, "Maimonides and Spinoza," #5 ("The Grades of Natural Knowledge in Maimonides"), pp. 129-34.

9. Moses Maimonides, *Millot Hahigayon* (Treatise on Logic), critically edited and translated by Israel Efros (New York: American Academy for Jewish Research, 1928) [published as Vol. VIII of the *Proceedings of the American Academy for Jewish Research*], Chapter VIII, p. 47.

10. *Pirkei Avot* (Ethics of the Fathers), V, 9.

3. Spinoza's doctrine that God is both Extension *and* Thought was *his* resolution of the controversy in Jewish thought about the Divine Attributes and the question whether there is any materiality in God, with Maimonides teaching the uncompromising doctrine that there is no materiality in God and branding as heretics those who did ascribe materiality to Him, though others disagreed.

4. The question of whether God is transcendent or immanent (or both), and Spinoza's doctrine of immanence reflected Rabbinic and philosophical debates in Judaism that culminated in some of the Kabbalistic doctrines during the 16th century.

5. Spinoza's proofs of the existence of God reflect, as Wolfson amply shows, not only the discussions in Greek, Christian and Arabic thought, but, most intimately, the discussions by Maimonides, Crescas and other medieval Jewish thinkers.

6. Spinoza's argument against the common belief that "God Himself directs all things to some sure end" and that "God has made all things for man that he may worship God"<sup>11</sup> reflects philosophical disputations in earlier Jewish philosophy, and takes a position similar to that of Maimonides and Gersonides. (Maimonides: "The true opinion is . . . not to believe that all things exist for the sake of man."<sup>12</sup> Spinoza actually uses the same words as Maimonides does.)

7. Spinoza's doctrine of Determinism is *his* resolution of the problem of free will, a problem implicit in Scripture, treated in Rabbinic discussions in the Talmudic period, and dealt with by Maimonides and Crescas both as a metaphysical problem, and also in relation to the question of man's moral responsibility.

8. Spinoza's arresting notion of *Amor Dei Intellectualis* is surely an apex, not only of his own philosophy, but, also, of the philosophies of Maimonides and Crescas, and represents a major trend in Jewish philosophical thought with which Spinoza was thoroughly familiar.

9. His identification of God and Nature, his revolt against the psycho-physical dualism of Cartesian and Christian thought, and various other doctrines too numerous to mention, are rooted in his early training in the religious and philosophical thought of Judaism that unmistakably constitute an overwhelmingly great part of the philosophical frame of reference within which Spinoza's genius functioned. So much, then, for criterion number one.

The attempt to apply criterion number three will also have to be brief, sketchy, and only suggestive. Did Spinoza's inquiries and ideas contribute to the advancement, enrichment, or clarification of ideas and doctrines in subsequent Jewish thought? The answer here will depend, in the first instance, on whether you look upon Jewish thought as an open system or a closed one. It seems to me that those who insist, and there are some who

11. Spinoza, *Ethics*, I, Appendix.

12. Maimonides, *Guide of the Perplexed*, III, 13.

do, that it is a *closed* system distort the authentic mainstream of Jewish thought. They ignore many pivotal markers in the development of its religious and philosophical articulation such as, to recall only a few: 1) the passage in Tractate *M'nahot*, which tells of God's drawing aside the curtain of the future in order to enable Moses to see Rabbi Akiba teaching Torah to his students, and Moses feeling weak and embarrassed because he could not understand the doctrine that Akiba was teaching some 1300 years later;<sup>13</sup> 2) the Rabbinic principle enunciated in the Talmud that "*ailu v'ailu divrei elohim hayim*"<sup>14</sup> (both conflicting doctrines are the words of the living God); 3) Maimonides' comment that the gates of interpretation are still open;<sup>15</sup> 4) Bahya Ibn Pakuda's assertion that we are under obligation to investigate theological and philosophical problems by rational methods, each according to his powers and capacities, and those who neglect to do so belong to the class of those who fall short of wisdom;<sup>16</sup> or 5) Joseph Albo's view that "every intelligent person is permitted to investigate the fundamental principles of religion and to interpret the Biblical texts in accordance with the truth as it seems to him."<sup>17</sup> In the light of such repeated commitments, there would seem ample justification for the assertion made recently by Judge Haim Cohen, a Justice in Israel's Supreme Court, that "The great contribution that Spinoza made to the history of Jewish thought is the proposition that the essence of Jewish law is freedom of Jewish thought and conscience."<sup>18</sup>

At the conclusion of his massive work on Spinoza, H.A. Wolfson credits him with four acts of daring:<sup>19</sup> 1) he declared that God has the attributes of extension as well as of thought; 2) he denied design and purpose in God; 3) he insisted on the complete inseparability of soul from body; and 4) he insisted on the elimination of freedom of the will from human actions. From a rigidly static point of view it must be supposed that these doctrines are heterodox, some even heretical. However, as was pointed out above, each of them has been espoused, with greater or lesser zeal, by one or more religious and philosophical thinkers in Jewish intellectual history prior to Spinoza, without their having been denied a place in this history. Spinoza's pushing these ideas to the unfolding of some of their further, or perhaps ultimate, implications opened up new possibilities for the pursuit of additional probing into these perilous areas by subsequent Jewish thinkers.

The late Harav Avraham Yizhak Hacohen Kook will serve as an illustration. While he was certainly critical of Spinoza, believed that the

13. B.T., *M'nahot*, 29b.

14. J.T., *B'rakhot*, Chapter 1 (Shulsinger Edition, New York, 1948), 3a.

15. Maimonides, *Guide of the Perplexed*, II, 25.

16. Bahya ben Joseph ibn Pakudah, *Duties of the Heart*, tr. by Moses Hyamson (New York: Philipp Feldheim, 1965), Volume I, *Shaar Hayihud* (Part I), Chap. III, pp. 66-67.

17. Joseph Albo, *Sefer Ha'Ikkarim* (Book of Roots), tr. by Isaac Husik (Philadelphia: Jewish Publication Society, 1946), Volume I, Book I, Chap. 2, p. 55.

18. *Congress Monthly* (March-April, 1978): 10.

19. H.A. Wolfson. *The Philosophy of Spinoza*, Vol. II, Chap. XXI, pp. 331-39.

excommunication was justified, and ascribed great danger to Spinoza's excessive rationalism and complete depersonalization of God, Harav Kook nevertheless noted the "admirable force" in Spinoza's thought and said that it was no wonder that this force had made its appearance especially in the thought of a *Jew* and "that the idea of God's unity had struck such deep roots in his soul."<sup>20</sup> Harav Kook taught that "True *Being* is Divinity . . . that *Being* in its entirety is Divinity and there is absolutely nothing except God . . . that everything is included in God," and that this is a monotheistic doctrine "inclined to a pantheistic interpretation, cleansed of its defects."<sup>21</sup> Clearly, this doctrine was in part stimulated by Spinoza's doctrine of *Deus sive Natura*, which, in turn, is likely to have reflected, in part, his familiarity with Kabbalistic doctrine, such as Moses Cordovero's principle that "God is all reality, but not all reality is God."<sup>22</sup> Which came first in the development of his thought is less important than the fact that Spinoza's philosophy, with which Harav Kook was more than perfunctorily familiar, may be seen here as a link between 15th century Kabbalistic teaching and the 20th century thought of Harav Kook.

Spinoza's incisive psychological insights in the *Ethics*; his philosophy of man in the *Ethics* and other works; his rejection of Christian and Cartesian psycho-physical dualism, and insistence on the *unity* of man; his sober and illuminating focus on the psychological and societal problems of controlling man's emotions and passions, through the employment of Reason<sup>23</sup> on the one hand, and of religion's teaching and guidance on the other (ignoring his self-contradictions in the *Treatise*) resonate in the contemporary philosophy of man by the late Rabbi Abraham J. Heschel, with its emphasis on the *mizvah*, on being commanded, as antidote to man's self-idolization in our current cult of "need-psychology."<sup>24</sup>

Certainly one of the greatest contributions of Spinoza to Jewish theology is his uncompromising reinforcement of the de-anthropomorphization of God, as taught by Maimonides in the *Guide*, as well as by others. It is interesting that Martin Buber, who certainly disagreed,

20. Avraham Yizhak Hacohen Kook, *Adar Hayakar V'ikvei Hazon* (The Mantle of Spondor and the Tracks of the Sheep) (Jerusalem, 1967), pp. 153 ff. (my translation).

21. Avraham Yizhak Hacohen Kook, *Orot Hakodesh* (Lights of Sanctity) (Jerusalem, 1964), Volume II, p. 399 (my translation).

22. Moses Cordovero (1522–70). Cf. Gershom G. Scholem, *Major Trends in Jewish Mysticism* (New York: Schocken Books, 1954), pp. 252–53, and p. 409, note 19. Cf. also Gershom G. Scholem, *Kabbalah* (New York: Quadrangle/The New York Times Book Co., 1974), pp. 144–52. [The Kabbalah and Pantheism: "The Single most definite statement in Cordovero's treatment of the problem can be classed as panentheistic: 'God is all that exists, but not all that exists is God.'" (page 150)].

23. See Isaac Franck, "Spinoza, Freud, and Hampshire on Psychic Freedom," in *Thought, Consciousness, and Reality: Psychiatry and the Humanities*, Volume 2, ed., Joseph H. Smith, M.D. (New Haven: Yale University Press, 1977), pp. 257–309 (especially 257–72, and 300–306).

24. Abraham Joshua Heschel, *Who Is Man?* (Stanford, Cal: Stanford University Press, 1965). Also: *Man Is Not Alone: A Philosophy of Religion* (Philadelphia: Jewish Publication Society, 1951), pp. 179–190, 207–215, 217–224. Cf. also: *God in Search of Man: A Philosophy of Judaism* (Philadelphia: Jewish Publication Society, 1956), pp. 397 ff.



found it necessary to confront Spinoza, and to declare that "in his theory of the divine attributes . . . (he) seems to have undertaken the greatest anti-anthropomorphic effort ever essayed by the human spirit."<sup>25</sup>

The impact of Spinoza's critical study of the Bible as a *human* document, *from an historical perspective*, is incalculable for the world of scholarship in general, and for Jewish religious thought in particular. That Spinoza was the father of the "Higher Biblical Criticism," and developed its principles in the first instance, is universally acknowledged, though he himself did not always adhere to them scrupulously in *The Treatise* in which he enunciated them. Of course, Spinoza was familiar with some precedents for his empirical method of Biblical study, in traditional Biblical commentators like Rashi and Abraham Ibn Ezra. But formulation of the full-fledged theory of this approach to the study of the Bible had to wait for him. The method displeased those who were rigidly literalist in the interpretation of Scripture as a Divine document, but the enrichment that it brought to the religious and historical study of the Bible, in the following centuries and down to today, is, to repeat, incalculable.

Do such considerations suffice to qualify Spinoza as a Jewish philosopher, on the basis of criterion number three? It seems to me that the heterodox or heretical character of many of his ideas should not result, in his case, any more than in the case of earlier philosophers, in the excision of his work from the spectrum of Jewish thought, though, as we know, such ideas or doctrines have often been the focus of protracted and bitter controversy. Luzzato was as extreme in his attack on Maimonides as on Spinoza. Of course, the reprehensible misdeeds that were committed against Judaism and the Jewish people in parts of *The Treatise* cannot be lightly dismissed, and the fact that the reactions which they have provoked have taken the form of the radical rejection of Spinoza from the body of Jewish philosophy, by some leading Jewish thinkers, is quite understandable. As Jacob Klatzkin, translator of Spinoza into Hebrew, said about Spinoza's *Treatise*, "This book is a trap into which a great man stumbled. It is a deed which is unbecoming to him."<sup>26</sup> However, these misdeeds do not cancel out or invalidate the greatness of his other work, nor do they constitute clear justification for his ejection from the mainstream of Jewish philosophy. But, on the other hand, recognition of the luminous, incandescent greatness of his other work should not prevent us from perceiving him, de-romanticized and de-mythologized, as a flawed man, with weaknesses of character, fears, and temptations, succumbing to defective judgments that were morally repugnant and philosophically at variance with some of his own fundamental principles.

25. Martin Buber, *Eclipse of God: Studies in the Relation Between Religion and Philosophy* (New York: Harper & Brothers, 1952), pp. 23-24.

26. Yaacov Klatzkin, *Barukh Spinoza*, p. 51 (my translation).



To summarize, then. *Against* Spinoza's classification as a *Jewish* philosopher, two considerations have been adduced:

1) His misdeeds against Judaism and the Jewish people in the *Tractatus Theologico-Politicus*.

2) The absence of any interest or intent on his part to contribute to the progression of Jewish thought; therefore, if he *is* a Jewish philosopher, he is that in spite of himself, and not by his own choice.

*In favor* of classifying Spinoza as a Jewish philosopher, two other considerations have been adduced:

1) A great many of his philosophical ideas arose out of the matrix of Jewish thought and experience.

2) Many of his ideas can be seen to be contributions to the later development and advancement of Jewish thought.

Can there be a definitive, categorical answer? Perhaps we might employ as an analogy the familiar historical case of the third century heretic, Elisha ben Avouyah. Before his renunciation of the tradition, the public avowal of his heresy, and his alleged collaboration with the Romans against his own people,<sup>27</sup> Elisha, a man of profound learning and great intellectual and spiritual stature, had been an esteemed and revered colleague among the Rabbinic sages of his day. It is of surpassing significance, first, that notwithstanding his public renunciation, heresies, and allegedly traitorous acts, a number of Elisha's pre-heretical teachings and precepts have been preserved, were not excised from the ancient Talmudic-Rabbinic texts, and are extant today in that body of literature as it has come down to us. Second, Elisha's friend and former pupil, the great sage, Rabbi Meir, continued in friendship and scholarly discussions with him even after the defection. This ongoing association no doubt caused many a raised eyebrow. However, one of their Rabbinic contemporaries, on a visit to Babylonia, reported that, in Palestine, "they say: 'Rabbi Meir ate the date and threw the pit away.'" In this connection, the Talmud tells us that another Rabbinic contemporary, the notable Raba, explicating a verse in the *Song of Songs*, declared that

... just as in the case of the nut, though it is spoiled with mud and filth, yet are the contents not detestable, so in the case of the scholar, although he may have sinned, yet is his Torah not detested.

And Rabbah b. Shila, still another contemporary, said "Rabbi Meir found a pomegranate; the fruit within it he ate, and the peel he discarded."<sup>28</sup> So let it be with Barukh Spinoza.

27. Louis Finkelstein, *Akiba: Scholar, Saint and Martyr* (New York: Covici, Friede Publishers, 1936), pp. 77, 254, and Footnotes on pp. 325 and 349.

28. B.T., *Hagigah*, 15 b.

*Erratum:* In the first part of this paper, which appeared in JUDAISM, 28, 2 (1979), footnote 47 should have read: See above, pp. 182-185, and Notes 12, 16 and 18.

# *The Mystery of the Red Heifer: A Scientific Midrash*

WILLIAM ETKIN

THE COMMANDMENT REGARDING THE PURIFICATION of those made ritually unclean through contact with the dead (Numbers 19:1–20) has evoked endless speculation because of its mysterious and, apparently, illogical prescription. The Torah requires that a preparation of ashes made from the sacrifice of a red heifer be sprinkled upon the subject to remove the stain of uncleanness. Yet, those who prepare the water of sprinkling or otherwise have contact with it are themselves rendered ritually unclean by it. As Rabbi Hertz has summarized it in his notes to the Humash:

This ordinance is the most mysterious rite in Scripture, the strange features of which are duly enumerated by the Rabbis. Thus, its aim was to purify the defiled, and yet it defiled all those who were in any way connected with the preparation of the ashes and water of purification. It purifies the impure, and at the same time renders the pure impure!

Rabbi Hertz goes on to tell the story of Johanan ben Zakkai who tried to turn away a Roman questioner of the rite by an analogy. “Just as a person afflicted by melancholy . . . is freed of his disease by taking medication . . . in the same manner the ashes of the Red Heifer . . . drive away the unclean spirit of defilement.” Students of that ancient Rabbi, however, perceived the weakness of the analogy, for the medications, in themselves, do not produce melancholy and they said to him, “That man’s attack thou hast warded off with a broken reed but what answer hast thou for us?” “By your lives” said the Master, “the dead man doth not make impure, neither do the ashes dissolved in water make pure; but the law concerning the Red Heifer is a decree of the All-holy Whose reasons for issuing that decree it behooves us mortals not to question.” Nevertheless, as Rabbi Hertz goes on to say, “there have been many attempts at explanation, at any rate of symbolization, of this law.”

It has always been characteristic of Jewish thought to ponder relentlessly the words of the Torah, seeking deeper insights into its spiritual meaning. In a similar way, scientists restlessly explore the mysteries of the physical Creation, striving to understand it better as a guide to material living. I think that there is, at the deepest level of human existence, a fundamental harmony between these two strivings, despite the superficial

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conflicts that they expose.<sup>1</sup> It is in this spirit that I wish to offer an analogy to the mystery of the Red Heifer, based on modern biology, and to comment on its significance.

The central disturbing aspect of the command is, as Rabbi Hertz expressed it: How can that, which is itself contaminating, purify those on whom it is sprinkled? Here is what appears to be a self-contradictory and, therefore, irrational phenomenon. Yet, in modern science, we see at least one similar one. I refer to the procedures associated with immunization and vaccination. The vaccines prepared for immunization against poliomyelitis, for example, require that the virus be grown in the laboratory under strictly controlled conditions. These are, indeed, dangerous materials, the slightest contamination with which may well prove fatal to the workers. Yet, we then proceed to give the finished preparation itself directly to patients and thereby protect them against infection by the virus. Described thus superficially, we have the same self-contradiction that we see in the Red Heifer — the substance that contaminates and destroys those who prepare it, yet strengthens and protects those who receive the end product. Indeed, the initial reaction of many, including scientists, to the introduction of vaccines was that the techniques of immunization are self-contradictory and dangerous.

However, dealing as it does with material objects which may be analyzed experimentally, science now finds no self-contradiction in immunization. The entire procedure is logical and sensible. The essential point brought out in the scientific analysis is that the protection afforded by the vaccine depends, not on the material itself, but upon the reaction to it of the recipient's body. The organism responds to a minute amount of the vaccine in diluted or weakened form by building up its own defense mechanism against the disease organism. An injection of a small amount of the poison serves to arouse the body's own reserve apparatus for fighting infection. It is this awakened immune mechanism which then gives to the body the increased resistance against infection from subsequent contamination.

It is, thus, clear that in judging the procedure of immunization as self-contradictory we suffered a lack of imagination and failed to understand the manifold possibilities of the physical Creation. It has always been difficult in science to appreciate how varied and subtle are natural phenomena. For example, science long accepted Aristotle's dictum that action at a distance is a self-contradictory impossibility. Yet, today, gravitation and electro-magnetic fields acting through empty space are accepted basics. We tend to be limited by our past experience and think that nature must follow the logic which this experience dictates. But the mechanisms in nature are vastly more complex than we first suppose. Only by relent-

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1. W. Etkin, "The Religious Meaning of Contemporary Science," JUDAISM, XII, (Spring 1963): 179-189.

less probing are we able to stimulate our imagination to match her fecundity. We use logic to test or confirm what our imagination suggests. I expressed this thought in a scientific essay by saying that science is "driven by imagination but reined in by logic."<sup>2</sup>

I think that a parallel to this struggle of scientists to extend the bounds of their imagination is to be found in Jewish tradition in the study of Torah. By unending examination and probing, the Jew tries to deepen his understanding of the spiritual truths of Torah, extending and stretching his imagination to uncover the significance hidden in the simple words of Torah. Commentators draw from the great wealth of Jewish history and individual experience in order to understand more fully the words of the sacred text. This, too, is a stretching of the imagination and a disciplining of it by logic and reason. Rabbi Aryeh Carmell has pointed out to me that Rabbi Israel Salanter began his great "Letter on Ethics" with much the same thought that I expressed above by saying that man is free in his imagination but bound by his intellect. So, we may ask — Can we find in the analogy of immunization an aid to the imagination to suggest what may lie behind the mystery of the Red Heifer? I think so, and I offer the following comment as a possible approach.

As Rabbi ben Zakkai said, the dead do not contaminate, that is, physically contaminate. Contact with the dead body of an animal does not require purification by the elaborate rite of the Red Heifer. Why, then, is the body of a deceased person different? Clearly, it is because in the death of a human being we are brought face to face with the ultimate mystery of human life; a soul has departed. To treat the human remains casually is to ignore the mystery of human spirituality. It is, so to say, declaring that human existence is only a physical fact to be treated in purely pragmatic terms; that the human body is only a machine to be discarded when worn out. Judaism, on the contrary, recognizes that each human soul is a spiritual world unto itself, of infinite worth. The human body, therefore, demands the respect due to the temple of a human soul. Yet the temptation to which we are exposed in the daily routine of living is to forget this uniqueness. We could thereby become defiled by the spiritual contamination of indifference and lack of reverence for the spirit which, we believe, has been breathed into man alone of all the Creation.

The commandment of the Red Heifer is beautifully designed to prevent defilement arising from such spiritual blindness. It obliges those who handle the corpse to observe a complex and demanding ritual and thereby evokes from them the attention and respect for the mystery of death and its meaning for the human soul. It compels all to pause and to face the mystery of the relation of body and soul. Those who deal with the dead are rescued from the spiritual contamination of thoughtlessness in a

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2. W. Etkin, "Logic Versus Imagination in an Experimental Analysis," *Perspectives in Biology and Medicine*, 20, (1977): 394-409.

routine handling of the body. As Rabbi Johanan ben Zakkai said, the waters themselves do not purify. Purification comes through the need for careful observance of the details of the ritual. It is, thus, not from the physical characteristics of the water of sprinkling but, rather, from the response of the person himself to the attention-demanding ritual that purification is attained. Is it not characteristic of all religious ritual that it is not the actions in themselves that signify but the self-consciousness demanded by them that is effective? Perhaps the analogy to the response of the body to vaccine is closer than at first appeared?

I do not wish to enter here into the biological view of the nature of ritual behavior. It is a complex subject to which modern studies of animal behavior have much to contribute, since we find that rituals play a considerable role in the life of animals (though not in their reactions to death). I wish to point out only one aspect of ritual that is dramatically similar to the commandment of the Red Heifer. To be effective as a signal and guide to conduct, a ritual must stand out as unusual and not be done for practical effect. Its non-utility must be conspicuous, so that it will compel attention and not be lost in the welter of functional actions of everyday living. For example, the dominance and courtship displays of most birds and mammals are showy actions which seem to us to be wasteful of time and energy. Yet experiments have shown that it is the very impracticality of these behaviors that makes them effective signals between animals. The formal bowing and cooing of pigeons, the parading displays of their antlers by deer are familiar examples of animal rituals.

Human rituals, likewise, share this characteristic of being impractical and seemingly irrational. Thus, when a modern Jew "washes" before breaking bread, he does so in a way that is formal and clearly not functionally efficient. He does not use soap and rub his hands together in an abundance of water. Physical cleansing, if necessary, should have been done before ritual "washing." By wetting only the fingers of one hand at a time with water from a cup he announces that is not the physical effect on the hands that is at issue but a public act of religious commitment, with appropriate proclamation of spirituality before pronouncing the blessing over the bread. So we can understand that is the very irrationality and intricacy of the ritual of the Red Heifer that suits it to its function. Carrying it out would make us pause to allow the spiritual anguish of facing the death of a human being to shine through in our actions.

With the destruction of the Second Temple the sacrifices, including that of the Red Heifer have, of course, ceased. However, the Rabbis were equal to the challenge and have provided us with rituals such as *shiva* and *kaddish* appropriate to present circumstances.

# *The Evolution of the Masada Myth*

BAILA R. SHARGEL

IN MODERN TIMES, MYTH HAS GENERALLY been regarded as a fundamental human expression, one of the modes through which groups of men express their human or national condition. This essay is a study of a single myth, that of Masada, which, for a long time, was accepted as a central symbol of Israel's independence.

Towards myth men exhibit two basic attitudes. The first can be summarized in a few words: myth is metaphor. Whether its details are historically accurate or logically plausible is immaterial. The clearest definition of this perspective was devised by Mark Schorer. For him myth is:

A large, controlling image that gives philosophical meaning to the facts of ordinary life; that is, which has organizing value for experience.<sup>1</sup>

This concept has proved useful to scholars in diverse fields. Folklorists and anthropologists who have studied the cultures of ancient Near Eastern peoples and of modern aborigines regard myth as an instrument which helps them reconstruct each people's understanding of reality. Literary critics and psychologists alike find metaphorical truth in the activities of legendary or literary gods and heroes. Non-fundamentalist students of religion find a reality "beyond history" in the primordial legends of Genesis and the sufferings of Job. Whatever the discipline, all agree that the truth of these tales is psychological and sociological, never subject to verification. All of them insist that myths should be taken seriously but never literally.

However, there have always been people unwilling to adopt this attitude. Taking the stories quite literally, they have subjected them to tests of logic and historical authenticity. Mircea Eliade points out that myth has been the object of rationalistic criticism since the days of the Ionian philosophers.

If, in every European language the word "myth" denotes a fiction, it is because the Greeks proclaimed it to be such twenty-five centuries ago.<sup>2</sup>

Although we accept Schorer's definition, we must also be mindful of the rationalistic critique which will figure prominently in the history of the Masada myth.

The Masada myth is a political one, i.e., one which employs a colorful narrative to convey the essence of a nation and the purpose of its existence. Like many other political myths, it is based on a particularly dra-

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1. Mark Schorer, "The Necessity of Myth," in *Myth and Mythmaking*, ed., Henry A. Murray (New York: George Braziller, 1960), p. 355.

2. Mircea Eliade, *Myth and Reality* (New York: Harper Torchbooks, 1963), p. 148.

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matic incident in history. Like other political and traditional myths, it is set in an epoch of supreme importance, perceived as a turning point in that history.

Not only are political myths structured like traditional ones; they also perform many of the same functions. As Thomas Mann has noted, the man who lives by a myth

search(es) the past for a pattern into which he might slip as into a diving-bell, and being thus at once disguised and protected might rush upon his present problem. Thus, his life (is) in a sense a reanimation that is the life as myth.<sup>3</sup>

One way to reanimate a myth is to dramatize it in a ritual. When men perform a ceremony or recite a formula which recalls a significant event in the annals of their people, the myth becomes, as Eliade maintains, "contemporary;" the past is turned into the present.

Political myths also exercise the important social functions which Durkheim and Malinowski first assigned to traditional myths. They sanctify and legitimize the prevailing social order; they promote sentiments of unity, group identity and communal harmony. These may be called the legitimative and integrative functions of myth.

But, in two respects, political myths differ from traditional ones. First of all, they encompass a narrower range of concern than do the Biblical, classical or literary ones. They deal with the claims of one people to a certain territory, not the foundations of the entire universe, with the origins of individual nations rather than of mankind. Their major figures are national heroes, to be sure, but they are neither divine nor are they archetypically human.

Secondly, those myths which are based on historical events are much more vulnerable to the rationalistic critique than are the other types. Few non-fundamentalist religious thinkers would alter their perception of the Biblical Flood story were a splinter of the original ark to be discovered or, conversely, were it somehow proved that there never was a universal deluge. By contrast, the critic desiring to dispel an historically-grounded political myth deliberately searches for evidence of its inaccuracy. Historical proof that the tale is partly or wholly a "fiction" can be the sharpest arrow in his quiver. Whether the myth survives his barbs depends upon the circumstances prevailing in the society at large.

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In this study we shall investigate the development of the Masada myth since the independence of the State of Israel. Ours is a threefold task: to examine its function in Israeli society; to explore the challenges which were put to it in recent years; and to investigate the changes which it has undergone in response to those challenges.

Students of the Masada myth have often maintained that it became a

3. Thomas Mann, "Freud and the Future," in *Myth and Mythmaking*, p. 373.



metaphor of Jewish existence only as a result of Zionist historiography. For nearly 1900 years, the accepted metaphor of diaspora life had been Yavneh, which emerged out of the same traumatic period of Jewish history, the destruction by the Romans of the Second Temple and of the Jerusalem center in the year 70 CE. At that time the Jewish people required a myth to provide a new pattern, which Mann called "the diving bell," within which to rush upon the problems of their new political and religious condition. The Talmud provided it in no fewer than five different versions<sup>4</sup> of Rabbi Yoḥanan ben Zakkai's departure from Jerusalem and defection to the Roman general, Vespasian, who permitted him to establish an academy at Yavneh, a small coastal town.

This myth offered a dramatic account of Jewish survival through the retention and transmission of the religious heritage. The willingness of ben Zakkai to collaborate with the Romans clearly implied that Jews were willing to relinquish political authority for the sake of internal control of their own affairs. For this reason the Yavneh myth was peculiarly unsuitable to the Zionists who returned to Palestine at the beginning of the twentieth century. Many of them not only rejected the halakhic basis of Judaism; they also opted for total self-determination. It was they who first promoted the Masada myth.

Masada is an ancient fortress in the Judean desert, located atop a bleak mountain that looms high above the Dead Sea. It was first fortified by Herod, and later, during the war with Rome, was settled by members of a party whom Josephus called "Zealots." Today, scholars believe that they were adherents of the party of the *Sicarii*.<sup>5</sup> The dramatic episode of Masada's capture by the Romans was, with one exception,<sup>6</sup> not part of the Jewish cultural heritage. The event was unrecorded in the Talmud or in any other traditional source, and was recounted only by Josephus in his historical work, *The Jewish Wars*.<sup>7</sup>

Here, briefly, is a summary of Josephus' account of the siege of Masada: When Titus was about to depart from Judea after successfully quelling the Jewish Revolt in a long and bloody war, he left a few Roman legions to keep order as well as to destroy whatever strongholds of independence remained. The last of these was Masada, which had served as a place of refuge for Jews in danger of capture since the onset of the war (66 CE). In 72 CE, the Roman governor, Flavius Silva, laid siege to the fortress. The Zealot defenders, amply supplied with food that they grew themselves and water from Herod's ingenious water system, bravely withstood the attack for about a year, but Silva's forces finally managed to scale the mountain and breach the walls. In two moving speeches the Zealot

4. Gedalyahu Alon analyzes the variant versions in his *Mehkarim be-Toldot Yisrael* (Tel Aviv: Ha-Kibbutz ha-Meuḥad, 1967), pp. 219–252.

5. See the important article by Morton Smith, "Zealots and Sicarii: Their Origins and Relation," *Harvard Theological Review*, 64, 1 (January, 1971): 1–19.

6. This is the *Yossipon Chronicle*, which will be discussed below.

7. Book VII, Chapters 8 and 9.

leader, Eleazar ben Yair, convinced his followers to commit suicide rather than surrender, on the grounds that death in freedom was preferable to life as a Roman slave. Inspired by their leader, the defenders proceeded to kill all members of their families, after which ten of their number, chosen by lot, slew all of their comrades and themselves committed suicide. The next morning, the Romans, finding 960 corpses, realized that they had achieved a pyrrhic victory; they had been bested by the Zealots in resolution and bravery.

At this juncture, it is important to reiterate that myths, qua myths, do not require historical substantiation. From this perspective, it is immaterial whether Josephus' tale was completely or partially a fabrication. Nevertheless, because his story was eventually to be subjected to the rationalistic critique, it is imperative that the reader understand the questionable nature of the narrative.

The first problem is the credibility of the author. Among Jews, Josephus has retained his ancient reputation as a self-seeking traitor to his people who, by his own admission, had tricked his comrades into suicide and then defected to the Romans. Still, biased as the account of the war in the Galilee may be, it does reflect the perspective of an actor in the drama. But, by 73 CE, the year of the fall of Masada, he was already living in Rome under the protection of the Flavian emperors.

Here then, is the second problem, that of the trustworthiness of Josephus' sources. Who told him of the mass suicide? At best, he received an account of the event at second or third hand. Because of the nature of the terrible deed and of his own position as a member of the Flavian household, it is unlikely that he had any Jewish informants.

Especially troubling are the long speeches attributed to Eleazar ben Yair, which, as we shall soon see, were to become the backbone of the Masada myth. Josephus claimed that two women and five children who had hidden themselves in the cleft of a rock emerged after the holocaust, presumably to report Ben Yair's words as well as the calamitous events. However, it is difficult to believe that even the adults who witnessed the sanguinary scene would have been in a state to repeat the content of the Zealot leader's addresses. Many years ago, the famous Josephus scholar, Thackeray, noted that the Jewish historian followed an ancient convention. Since the time of Thucydides, historians had inserted great set speeches of their own fabrication to carry along the narrative.<sup>8</sup>

The question of the authenticity of Josephus' historical writing did not trouble those Jews who reintroduced Masada into Jewish history. For them, the events surrounding the fall of Masada became a myth according to the definition advanced by Schorer, a large controlling image out of the past which organized their contemporary experience.

The Masada story manifested many of the characteristics of myths in

8. St. John Thackeray, *Josephus: The Man and The Historian* (New York: KTAV Publishing House, 1968), p. 42.

general and political myths in particular. First of all, whether or not Josephus recorded authentic events, he certainly knew how to tell a tale; his rendition of the siege and fall of Masada is particularly dramatic.

More significantly, the story conveyed important implications for modern Zionism. It dramatized one of the principal tenets of Zionist philosophy, namely, that the new Jewish state, established in 1948, is a continuation of the Second Jewish Commonwealth, whose last defenders fell at Masada. (This, incidentally, is a fiction; the Jews had lost their short-lived independence long before the Great Revolt, when Pompey marched into Jerusalem in 63 BCE.) It is possible, therefore, to understand Zionist historiography's link between the Second and "Third" Temple as an adaption of a traditional mode. Eliade has noted that, in End-of-the-World myths, what is essential "is not the fact of the *End* but the certainty of a *new beginning*,"<sup>9</sup> which inevitably, but not necessarily immediately, follows upon it. According to the Zionists, that long-delayed new beginning was the reestablishment of the Jewish State.

Another characteristic of myth, as noted above, is its ability to inspire personal involvement rather than mere contemplation. It is significant that day tours to the top of Masada, undertaken at least once by virtually every resident, (and traveller to Israel, too,) have a long history. They were popular in the 40s and 50s among young students and sturdy older citizens who braved the tortuous "Snake Path" in order to examine the as-yet unexcavated site. A few brave souls undertook the perilous journey even as early as the late 1920s.

It was at that time that, as the result of two factors, interest in this all-but-forgotten site was rekindled.<sup>10</sup> One was the new fascination with archaeology which followed the discovery, in 1926, of a complete mosaic synagogue floor from the sixth century CE at Kibbuz Beit Alpha. The second was the publication, in 1927, of a poem entitled *Masada*. Its author was Isaac Lamdan, a member of the Third Aliyah, the relatively large wave of immigration to Palestine in the four or five years after World War I. Lamdan was a fugitive from the terrible pogroms which followed the Russian Revolution, and both his life—he ultimately committed suicide—and his work reflect the disillusion of his generation.

Despite his selection of the Masada motif, Lamdan neither retold Josephus' story nor even used its *personae* as principal actors in his drama. Nevertheless, the suicide of the Zealots hovers in the background atmosphere of this rather pessimistic work. Its protagonist, a refugee from the post-war pogroms, struggles up the forbidding mountain, a symbol of the Jewish settlement in Palestine, rejecting all who offer alternative solutions to the plight of the Jews. When he finally reaches the top, he witnesses a

9. Eliade, *Myth and Reality*, pp. 75–76.

10. See Amos Elon, *The Israelis* (New York: Holt, Rinehart and Winston, 1971), pp. 280–289.

stirring circle dance, out of which emerges the most famous couplet in the poem:

Ascend, chain of the dance  
Never again shall Masada fall.<sup>11</sup>

The use of the word “again” indicates continuity between the modern *yishuv* and the Zealots’ lost cause. Lamdan was the first to identify the final holdout of the Jews against ancient Roman domination with the new Jewish settlement of Palestine. Thereby he created a modern myth, expressing in poetic imagery the thesis advanced by Zionist philosophers who used cognitive, rational argumentation. His poem implies that Palestine-Masada is the last stronghold of the Jews against modern “Rome,” the hostile European world, the only viable solution to what is popularly known as “the Jewish question.”

It is the fourth characteristic of the Masada myth which is of the greatest concern for this study. That is the social role which it performed for Israeli society. Let us investigate how, for a period of two decades after the establishment of the State of Israel, it exercised the functions of legitimation and integration.

Charles Liebman has defined “legitimation” as “transmitting the sense that there is an inherent justness or rightness about the nature of the social order and the goals which the society pursues.”<sup>12</sup> It is obvious that a society most requires legitimation when what it does is challenged. During the early years of the state, the Masada myth was utilized to justify Israel’s authority over its wilderness areas, the Negev and the Judean desert, in particular, as well as its general rights over Palestinian territory.

It should be remembered that in the UN Partition Plan of 1947 the desert territories were not allocated to the Jews; Israeli jurisdiction was extended only under the Armistice agreement of 1949. During the first half of the 1950s, the infant state had to struggle constantly to retain those territories. Murderous Arab infiltrations across the southern and eastern borders were a major cause of the 1956 Sinai Campaign.

This problem is reflected in a Hebrew guide book, *Do You Know the Land?* written by Joseph Braslawski and published by *Ha-Kibbutz Ha-Meuḥad* in 1950. The author refers to Israel’s struggles in the UN to retain the land around the Dead Sea and, significantly, he asserts that Israel’s rights to this territory derive from the struggles of the Zealots under Ben Yair. After describing the pilgrimages undertaken by many young people to the top of Masada, he announces dramatically:

They (the youth) come to draw from Masada strength for future struggles for our national life that is renewing itself in the land. Those who ascend

11. From a translation by Leon Yudkin at the end of his book of criticism, *Isaac Lamdan, A Study in Twentieth-Century Poetry* (N.Y.: Cornell University Press, 1971), p. 225.

12. This is taken from the draft of an unpublished book by Charles S. Liebman on the civil religion of Israel.

Masada proclaim that the last defenders of the Great Rebellion did not die in vain; (they fell) for the sanctification of political and spiritual sovereignty. (Today) their labors reap rewards, for their sons have returned to their borders<sup>13</sup> (my translation).

Braslawski's argument brings to mind the attempts of other nations to champion their control of disputed areas. For years, Americans "remembered the Alamo" in order to justify their annexation of Texas, a northern province of Mexico settled by "Anglos" who unilaterally declared their independence. More recently, Afrikaners have vindicated their control of South Africa on the basis of the sufferings of their Boer ancestors who trekked to the northern wilderness in the 1830s and who died in British concentration camps during the Boer War.

We noted previously that political myths are often enacted in rituals and ceremonies which turn past memories into present reality. In the years following Israel's independence, the fortress analogy was reinforced by the unwonted experience of isolation in a hostile Arab world. This probably accounts for the selection of Masada as the site of the induction ceremony for soldiers in the armoured units of the IDF. For each individual this service became a veritable *rite de passage*, marking his initiation into the responsibilities of manhood and citizenship. For the military establishment, the ceremony provided legitimation in historical terms, as indicated by the wording of the formula recited by the recruits:

"Because of the bravery of the Masada fighters, we stand here today."<sup>14</sup>

Yadin adopted the same thesis in an address delivered on Masada a few months before he undertook his extensive excavation there:

When Napoleon stood among his troops next to the pyramids of Egypt, he declared: "Four thousand years of history look down upon you." But what would he not have given to be able to say to his men: "Four thousand years of *your own* history look down upon you . . ." The echo of your oath this night will resound throughout the encampments of our foes! Its significance is not less powerful than all our armaments.<sup>15</sup>

In 1969, four years after the completion of the excavation, Yadin performed an act apparently designed as a legitimation of the IDF, even though none was needed at that time. In the course of the archaeological dig, the skeletons of twenty-five men, women and children were discovered in a small cave. Yadin identified them as the bodies of Zealot fighters by finding similarities between their skulls and those found in the Bar Kokhba caves at Nahal Hever. On the basis of this evidence alone he decided to honor the remains in a curious ceremony. The bones were exhumed and then reinterred with full military honors under markers of

13. Joseph Braslawski, *Ha-Yadatah et Ha-Aretz?*, Vol. III (Tel Aviv: Dvir Press, 1950), p. 448.

14. Cited by Benjamin Kedar in his article "The Masada Complex," *Ha-Aretz*, April 22, 1973.

15. Quoted by Elon in *The Israelis*, p. 288.

the IDF. By forging this link between the martyred heroes of the Second and Third "Commonwealths," Yadin found a new method to confirm the continuity of Jewish independence on the soil of *Erez Yisroel*.

These are only a few examples of the use of the Masada myth to legitimize Jewish rights to the land of Israel. Authors of other guide books and of patriotic addresses, as well as of coin inscriptions, text books and novels, have all employed the heroic story of the Zealot defense for the same purpose.

The Masada myth was also utilized for the purpose of integration, which Charles Liebman defines as

uniting the society by involving its members in a set of common ceremonies and myths which are themselves integrative and which in turn express a sense of a common past, a common condition and a common destiny on the part of the participants.<sup>16</sup>

Such a definition reveals that it is virtually impossible to disentangle the integrative from the legitimative uses of the Masada myth. For example, it is obvious that the statements of the armoured corps recruits and the re-burial of the putative Zealot corpses served both purposes.

The best known use of the Masada myth for the purpose of integration was, of course, Yigael Yadin's extensive excavation of the mountain fortress in two seasons: October 1963 to May, 1964 and November, 1964 to April, 1965, a total of eleven months. Yadin reported his findings in a beautifully illustrated volume, published in 1966 in both Hebrew and English. From the outset, it was evident that this was not a work of historical scholarship, but a book of popular interest with a moral message. From start to finish, it reflects the true purpose of the Masada excavation, which was to integrate the Israeli public around a heroic myth expressing the common past, the common condition and the common destiny of the people of Israel.

The critical reader may detect a certain tension between Yadin the scholar and Yadin the purveyor of a moral message. As an archaeologist, the author was required to uncover all of the historic remains on Masada. It is evident that the original Herodian fortress yielded far richer and more extensive treasures than did the meagre Zealot settlement. And, indeed, Yadin did devote a number of chapters to Herod's buildings, water systems, and the like. Nevertheless, at the onset, he informed his readers just which discoveries had the greater value:

The Masada defenders . . . had left behind no grand palaces, no mosaics, no wall paintings, not even anything that could be called buildings, for they had simply added primitive partitions to the Herodian structures to fit them as dwellings, and there they had installed their domestic items, like clay ovens and wall couches . . . But to us, as Jews, these remains were more precious than all the sumptuousness of the Herodian period; and we had our greatest moments when we entered a Zealotian room and under a layer of ashes

16. From Liebman's "Work in Progress."

came upon the charred sandals of small children and some broken cosmetic vessels. We could sense the very atmosphere of their last tragic hour. This feeling was heightened when we excavated a palace room decorated with Herodian Roman wall paintings—which had been covered with soot from an oven which had been put up in a corner. This, more than any of the other remains, revealed the vast contrast between the Masada of the year 66 AD and the Masada of Herod. The Zealots and their families had no need of luxurious palaces. They faced the brutal challenge of life or death, the stark problem of existence, and Herodian magnificence meant nothing to them.<sup>17</sup>

That the tension was resolved in favor of ideology is also indicated by the very title of the book. While the English subtitle is a neutral *Herod's Fortress and the Zealots' Last Stand*, its Hebrew counterpart is a doctrinaire *Bayamin Ha-hem, Bazman Ha-Zeh*. This phrase, which means "in those days; at this time," indicates that the volume deals with the process of excavation ("at this time") as well as the findings of the archaeologists (from "those days"). However, it is obvious that Yadin had a larger purpose in mind, for every Jew knows that these words appear in a blessing recited over the Hanukkah candles. Thus, the phrase conjures up a mental image of Maccabean heroism and ultimate triumph against overwhelming odds and was a deliberate contribution to Yadin's objective—the integration of the population of Israel around "a large controlling image" which bestowed meaning upon the hard facts of life in a besieged state.

From the beginning, the Masada project was conceived of as a national enterprise. Although it was financed by money from abroad, mostly Great Britain, the government and citizenry of Israel provided the means for the reconstruction of the site. The permanent staff of the excavation was composed of a cadre of scholars from the Hebrew University, Israel's national university, of whom Yadin was only the most famous. Army Engineers prepared the camp site for excavation, built "stairs" up the mountain and provided a water supply for the staff. *Gadna*, the paramilitary youth corps, sent seventeen-year-olds to do weekly stints. Generals made frequent appearances on Masada, expounding on the "educational value" of the enterprise and encouraging soldiers to spend their precious leave time there. Newspapers extended almost daily coverage to the project, featuring the more dramatic discoveries on the front page. Encouraged by the publicity, citizens of Israel (along with many foreigners, Jew and Gentile alike) streamed into the Judean desert to join in this grand operation.

Reporting on all of this, Yadin maintained that the excavation itself had become a symbol. The erection of the modern camp to accommodate

17. Yigael Yadin, *Masada, Herod's Fortress and the Zealots' Last Stand*, trans. Moshe Pearlman (New York: Random House, 1966), pp. 16–17.



the staff next to the ruins of the camp of the Tenth Roman Legion illustrated "the miracle of Israel's renewed sovereignty."<sup>18</sup>

Here, cheek by jowl with the ruins of the camp belonging to the destroyers of Masada, a new camp had been established by the revivers of Masada.<sup>19</sup>

If the medium of integration was popular participation in the excavation, its message was stated in the speeches of Ben Yair, as reported by Josephus. In no instance did Yadin question the credibility of the ancient writer. Instead, he searched for what he called "evidence we could find to support the Josephus record."<sup>20</sup>

In his opinion, the most important discovery of the entire excavation was some data which seemed to confirm Josephus' portrait of the Zealot leader. This was a group of "eleven small strange ostraca" (shards),<sup>21</sup> on each of which was inscribed a single name. All seemed to be written by the same hand. Yadin did not claim with certainty that these were the ostraca which, according to Josephus, were used in choosing the ten men designated to slay all the others. (He ignored the unsettling fact that there were eleven rather than ten.) However, it was his contention that, since one was inscribed with the name Ben Yair, "the probability is strengthened."

The most surprising feature of Yadin's *Masada* is its eighteenth chapter, which is really the last in the body of the work. (Chapters nineteen and twenty are actually appendices dealing with matters peripheral to the excavation itself.) The reader is amazed to discover that the author of this passage is not Yadin, but Josephus. Entitled "The Dramatic End," it is the ancient historian's account of the Roman conquest of Masada, featuring the mass suicide, the Roman discovery of the Zealot corpses and, most significantly, the heroic speeches of Ben Yair.

There is no question that, for Yadin, the message of Masada was embodied in the pithy phrase attributed to the Zealot leader: "to live free or to die." As we shall soon see, the critics of the 1970s were to take Yadin to task for focusing on an event which glorified death, since they emphasized the second half of the phrase. This was a misrepresentation of Yadin's intentions, the tone of whose book is healthy and optimistic, emphasizing life with honor, not the grim alternative. He was no more a champion of patriotic suicide than was Patrick Henry when he proclaimed, "Give me liberty or give me death," or the modern Spanish patriot, La Passionaria, who said in an anti-Fascist radio broadcast: "It is better to die on your feet than to live on your knees."

For Yadin, the message of Masada was simply and clearly the transcendent value of independence, and the myth of the Zealot suicide was intended to integrate the entire population of Israel around the resolu-

18. Ibid., p. 21.

19. Ibid., pp. 21-26 (Pictures interrupt the text).

20. Ibid., p. 15.

21. Ibid., p. 201.

tion never again to return to a state of what he called "physical and moral serfdom."<sup>22</sup> He assured an Israeli population that was already committed to the slogan, "Masada shall not fall again," that freedom and independence were irreversible.

However, there was one feature of the myth that was to undergo change during the course of the excavation. Earlier on, we noted the anti-rabbinic, anti-religious implications in the sub-situation of the Masada myth for the myth of Yavneh. The disclosure of new evidence during the first few months of excavation was to alter this perspective.

The first and most surprising discovery was of two *mikvaot* (ritual immersion baths). In rich detail, Yadin reported how two elderly rabbis, clad in their customary heavy garments and accompanied by a band of Hasidic followers, climbed the tough Snake Path. After describing how they measured one of the pools, declaring that it was, indeed, *kosher*, Yadin declared: "This *mikve* meant more to them than anything on Masada."<sup>23</sup>

He was equally elated about the uncovering of many scrolls of a religious nature: Biblical, apocryphal and sectarian. He also sketched in loving detail the painstaking excavation of a synagogue and the work involved in proving that it was not only a true synagogue but the only extant institution of this sort dating from the period of the Second Temple.

As the archaeologist became increasingly involved in examining this unexpected testimony to the religious nature of the Second Temple period, he also became aware of its importance to a large percentage of his fellow citizens. He realized that the Masada myth could appeal to religious as well as to secular Israelis and, thereby, unite all Jews around a common symbol.

In sum: the Masada myth performed two important functions for Israeli society during the first two decades of independence. It validated the right of the Jews to Israel's southern territories and, by extension, to the entire country; it also integrated the diverse Jewish population around a historical event which had resonance in the twentieth century.

\* \* \*

No sooner was there the highly dramatic use of the myth for purposes of legitimation and integration—the reburial of the corpses on Masada in 1969—than it came under attack. It is not uncommon for political myths to be embraced in one decade and disparaged in the next; those about Kennedy immediately come to mind.

As we noted above, political myths based on historical events are peculiarly susceptible to adverse criticism, generally of two types. Re-

22. Ibid., p. 13.

23. Ibid., p. 166.

visionist historians may discover new data or advance new interpretations of existing evidence. Or, alternatively, changing political circumstances may render the myth an inappropriate metaphor for the current situation.

In the case of the Masada myth it was clearly the latter condition which generated the change, although all of the Jewish critics employed the rationalistic critique.

It should be noted that some archaeologists and historians had never accepted Yadin's conclusions. Even before the Masada expedition began, Yohanan Aharoni, Yadin's distinguished late colleague at the Hebrew University, denounced it as propagandist rather than as scientific in intent. Moreover, after its results were published, two American Jewish writers penned scathing articles attacking both Yadin's methods and his conclusions.<sup>24</sup> However, all of these arguments were generally ignored during the decade of the 1960s.

General reappraisal did not take place until the early 70s, as a result of Israel's new image in the world press during the years following the Six Day War of June, 1967. Initially, the decisive military victory had been widely commended. However, as the stalemate that ensued showed no sign of abating, many foreign journalists became increasingly critical of Israel's political position. Why? One reason was that reporters operate most effectively when they can describe concrete incidents. As the sequence of events that led up to the war faded from memory, what remained in public view was Israel's retention of the territories which had previously belonged to, and were still claimed by, Jordan, Syria and Egypt. By contrast, the argument that land could not be surrendered without guarantees of security appeared to be a mere abstraction, difficult to accept from a nation that had lost its "underdog" status.

In their search for a symbol that would represent their perception of Israeli unreasonable stubbornness, hostile newsmen seized upon Masada. In the spring of 1973, two pieces appeared in *Newsweek* magazine. One was an editorial, the other a signed article; both equated Masada with fanaticism and intransigence. The former characterized Israel's political posture as a Masada-inspired "stiff-necked refusal to compromise."<sup>25</sup> In the latter, Stewart Alsop condemned Israel's "Masada complex," defining it as nationalistic fanaticism and mindless inflexibility, as a threat to the peace of the Middle East and, indeed, the entire world.

Criticism of the myth was not limited to unsympathetic foreign writers. During that same twenty-fifth spring of Israel's existence, the prestigious Israeli newspaper, *Ha-Aretz*, published two articles which were

24. Trude Weiss-Rosmarin published two extensive articles on the subject in the *Jewish Spectator* in October, 1967 and December, 1969. Zeitlin's article appeared in the Nov.-Dec., 1968 edition of the American Hebrew monthly *Bizaron*.

25. *Newsweek*, May 7, 1973, p. 53.

26. "Again, The Masada Complex," *Newsweek*, March, 19, 1973, p. 104.

witheringly critical of the cult of Masada.<sup>27</sup> The authors, Benjamin Kedar and Raphael Rothstein, first subjected the myth to the tests of historical authenticity and credibility, and both of them censured Yadin's uncritical acceptance of Josephus' words. Rothstein also challenged the identification of the twenty-five skeletons as those of the Zealot defenders.

It is clear that the primary aim here was not to make a contribution to historical scholarship, but to question the pertinence of the Masada metaphor to the conditions prevailing in the immediate past and the present. Thus, Kedar found in Ben Yair's famous motto not the transcendent value of liberty but an eagerness to court death. This may be seen as a reversion to a medieval understanding of the Masada episode. The "Zealot" struggle had impressed itself upon Jewish consciousness only once before. During the tenth century, a paraphrase of Josephus' *Wars* was compiled. Earlier in that century, in a sad preview to the trials of the Crusades, some Italian Jews had slain themselves to escape conversion. In the *Yossipon Chronicle*, the latter day Zealots justified their suicide on the basis of their own sacred honor and on *Kiddush Hashem*, the sanctification of God's name.

It was not only the suicide motif that troubled the Jewish detractors of the Masada myth. Kedar and Rothstein and, following them, Robert Alter in the United States,<sup>28</sup> also found fault with Yadin's choice of the Zealots as heroes. They pointed out that this ancient insurgent group had rejected accommodation not only with the Roman enemy but even with their fellow Jews. Implicit in the critical argument was the acknowledgement of the need for unity and concord both within Israel's borders and among the world Jewish community. Finally, and most significantly, these Jewish intellectuals, painfully sensitive to foreign criticism, pleaded for the rejection, or at least the reinterpretation, of a story which was so easy to explicate as the glorification of intransigence and fanaticism.

It was at this juncture that the Masada saga took on a new and different meaning. After 1973, it came to represent, not Israel's current condition, but the horrors of the recent past. In his article, Kedar took to task those who would compare Ben Yair and his followers to the ghetto fighters. Here was a reference to Premier Golda Meir's response to Stewart Alsop's accusation that Israel had a "Masada Complex."

It is true . . . we do have a Masada complex. We have a pogrom complex. We have a Hitler complex.<sup>29</sup>

In saying these words, the late Prime Minister really turned Lamdan on his head. To her, Masada did not mean heroism and the willingness to survive despite all obstacles; it meant, instead, submission to pogrom.

27. Benjamin Kedar, "The Masada Complex," April 22, 1973; Raphael Rothstein, "The Disturbing Myth," April 20, 1973.

28. "The Masada Complex," in *Commentary*, 56, 1 (July, 1973): 19-24.

29. Quoted in "Again, The Masada Complex," p. 104.

In 1973, even Yigael Yadin modified his perception, and in a *News-week* interview in May of that year he said:

Many young people now say that the Zealots went to the massacre like sheep . . . Israelis today make the pilgrimage to Masada not necessarily because they consider the Zealots' example worth emulation, but in order to remind themselves to keep their country strong enough that they will never be faced with the Zealots' desperate choice.<sup>30</sup>

More recently, Moshe Dayan, in his autobiography, also made of Masada a symbol of ignominious death. Before American officials he justified Israel's conduct in the '73 war in the following words:

Israel was not Czechoslovakia, and our generation was not the generation of Masada, where the defenders of the last Jewish outpost in the war against the Romans in the first century b.c.[sic!] held out to the end and then committed suicide. We would continue to fight and live.<sup>31</sup>

In sum, by the middle of the 1970s, Masada had become for many a symbol of what Israel did *not* want to become. In the long run, a negative symbol is no symbol at all. Today, virtually no Israeli citizen accepts the Zealot-Sicarii fanatics as role models, and public speakers and popular writers seldom present their story as a paradigm for the virtues of freedom and independence.

Instead, in recent years, Israel has gained two new symbols which are better suited to accomplish the tasks of legitimation and integration. Golda Meir was wrong, as Kedar pointed out, in equating the Masada suicide with the trials of the Holocaust. The *Yad VaShem* monument is a more appropriate and direct means of legitimizing Israel's position as a refuge for persecuted Jews and as heir to European Jewry. The Western Wall is a more suitable reminder of Israel's continuity from the Second Commonwealth. Furthermore, Israel's present premier seeks to justify the Jewish claim to the land on a religious rather than on a national basis. Menahem Begin's arguments are grounded in the Biblical, rather than in the Second Temple, period.

But if the Masada myth is no longer operative, its site is still very much a part of the Israeli scene. Archaeology retains its charm, and Masada is still the most extensive and carefully maintained archaeological site in Israel. Visitors continue to marvel at Herod's frescoes and water system and thrill to the bloodcurdling tale of the Zealots' Last Stand, which most tour guides continue to recount uncritically. Many take delight in the story of Yadin's accidental discovery of the synagogue, scrolls and ritual baths on top of the mountain.

It is, therefore, not surprising that, of late, some Israelis have attempted to re-evaluate the significance of Masada. Gaalyahu Cornfeld, a writer of popular books on historical themes, has recently published a

30. Cited in the May 7th editorial.

31. Moshe Dayan, *Story of My Life* (New York: William Morrow & Co., 1976), p. 450.

work in which he maintains that the desert fortress has become a symbol of humanity's longing for freedom.

Here is probably an echo of Yadin's latest re-appraisal of Masada. Although the archaeologist realizes that the fanatical Zealots have become an inappropriate paradigm for an Israel struggling to convey a message of moderation, he is unwilling to relinquish his vision of the moral message of their actions. In his preface to a pamphlet addressed to English-speaking visitors to the site he says:

Masada was and is first and foremost a symbol. It signifies the stand of the few against the many, the last fight of those who gave their life for political, religious and spiritual freedom and chose death rather than submission. This is the universal message of Masada.

It is clear that Yadin is striving to transform what had been a metaphor of the national condition into a symbol of the human need for freedom. However, there is no question that a literary symbol lacks the potency of myth. It may serve as a charming diversion, stimulating the mind and beguiling the heart, but it does not have the power to organize experience, to provide meaning for the life of the group. Yadin's new interpretation falls short in another respect. As a universal symbol, Masada is unlikely to speak to contemporary Israelis, who feel isolated from the world, increasingly so since the Yom Kippur War.

For these reasons, the future role of the Masada saga remains uncertain. Anything can, and probably will, affect the uses of this dramatic story: the dispute between the Orthodox and non-Orthodox, public acceptance or rejection of Begin's view of history, the success of the recent peace treaty. If the evolution of the Masada myth has taught us anything, it is that its interpretation inevitably depends upon the circumstances in which the people of Israel find themselves.

# Repercussions of the Kalam in Jewish Philosophy

Harry Austryn Wolfson

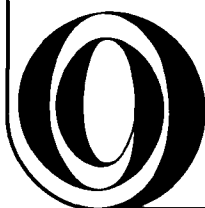
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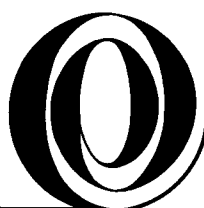
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# *Coming Out of the Assimilationist Closet: Confessional Notes, Delivered from the Lectern*

SANFORD PINSKER

LONG, TRICKSY TITLES DESERVE AN EXPLANATION. Let me begin by warning off those who imagine that this article is about American-Jewish homosexuals, full of case histories, intimate details, confessional candor and a pitch for "gay rights" at Jewish Community Centers. It is not. Rather, it is about the uneasy truce between the Jewish intellectual and the academic life, about those professors whose careers *began* at a time when the American-Jewish renaissance was already in full bloom. And since such matters cannot go disguised for long, it is also about myself.

When Irving Howe describes the New York Intellectuals (brilliant theorists and scrappy essayists like Philip Rahv, Meyer Schapiro, Sidney Hook, Paul Goodman, Lionel Abel *et al.*) as men who discarded their immediate, immigrant past, broke away from families, and pitched, head-long into Modernism, he makes "starting out in the thirties" sound as exhilarating, as intellectually bracing, as it must have been. One needs merely to tick off the titles of books, the names of authors, the combative journals to feel that "There were giants in those days!" As Howe puts it:

Energy was released, and with that energy a range of ambitions from the pure to the coarse. What made Sammy run was partly that his father and his father's father had been bound hand and foot. And in the New York intellectuals there was, there had to be, a fraction of Sammy. All were driven by a thrust of striving, an unspoken conviction that lost time had now to be regained.<sup>1</sup>

If, as Lionel Trilling shrewdly observes, Modernism adopted an "adversary stance," it is hardly surprising that many of the movement's most ardent supporters should have been drawn from the peculiar circumstances which formed immigrant Jewish sons. In a sense, the New York Intellectuals were twice blessed; their dissatisfactions with the narrow, constraining elements of Jewishness were matched, on the other side of the coin, by an equal discontent about genteel American culture. They struck, perhaps could not help but strike, an abrasive note. At least, that is how it must have appeared in those apprentice years when *Partisan Review*

1. Irving Howe, *World of Our Fathers* (New York: Harcourt Brace Jovanovich, 1976), p. 600.

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was as much a rallying point as an increasingly influential journal, when marginality was regarded as *the* decisive literary credential.

Granted, hindsight has a way of elevating the minor skirmish into the decisive battle, and of shoving the complicated pains of alienation down the memory hole. Isaac Rosenfeld's telling phrase — "bare, pared, essential men" — may be an accurate description of their collective posture, but it also suggests the yearning for wider orbits and larger acceptances that pulsed just beneath all the bravado. In short, Modernism could spring only from a world where people yoo-hooed out of tenement windows and the very air was thick with parochialism.

That they should find even stiffer resistance North or West of the Hudson is hardly surprising. At Harvard, for example, Stanley Kunitz discovered that the central truth about being a Jewish over-achiever lay not in the "achievement," but in the fact that he was Jewish:

Although I had been awarded the Garrison Medal for Poetry and had been graduated *summa cum laude*, I was ultimately denied a post as teaching assistant on the ground that "Anglo-Saxons would resent being instructed in English by a Jew."<sup>2</sup>

Closer to home, at Columbia, others experienced much the same frustration. Lionel Trilling recalls that his friend, Elliot Cohen (later to become *Commentary's* first editor),

... had given up the graduate study of English because he believed that as a Jew he had no hope of a university appointment. When I decided to go into academic life, my friends thought me naive to the point of absurdity, nor were they wholly wrong — my appointment to an instructorship in Columbia College was pretty much regarded as an experiment, and for some time my career in the College was complicated by my being Jewish.<sup>3</sup>

Needless to say, not all of the stories ended as triumphantly as did Professor Trilling's. We record the names of the brilliant who succeeded; the rest were put-off, kept out, finally broken. Perhaps the opening lines of Karl Shapiro's poem, "University," (1940) strike deepest at the truth of those days: "To hurt the Negro and avoid the Jew/ Is the curriculum."

I was born in 1941, at a time when the world was locked in a nightmarish struggle and the mere accident of geography allowed me to live. That realization, as much as anything else, was a heritage I could not easily shake even had I wanted to. In Washington, Pa. (population, approximately 25,000), Jewish youngsters quickly learned that they were "different." And it took no special Jewish intelligence to figure out that the word, always voiced with the full emphasis of italics, was a code for *weirdo*, for *odd-ball*, for worse. Rather than in noisy, congested urban streets, I grew up among strip mines, slag heaps and the glass factory that would, one day, employ my classmates. Jews owned the furniture and clothing

2. From Abraham Chapman, ed. *Jewish-American Literature* (New York: New American Library, 1974), p. 345.

3. Lionel Trilling, "Young in the Thirties," *Commentary* (May 1966): 47.

stores downtown, were doctors or lawyers, but they were neither the “old money” who lived in fashionable, sprawling houses on the east side of town, nor were they members of the local proletariat who bowled on Wednesday nights or guzzled beer at the Sons of Italy. They lived in an ill-defined limbo, a ghetto of the spirit, and cultivated a low profile. “Noise makes trouble,” my father would insist, remembering the days when the Ku Klux Klan held rallies outside of town and when, once, they marched, unhooded, down Main Street. Those grimly determined faces belonged to people he *knew* — the bank official who had arranged his car loan, a high school coach, one of his customers. He was shocked and, at the same time, not shocked. It confirmed a sense of history that he had lugged with him from a town in Russia which he seldom spoke about. There, the fist loomed as an eventuality that one could, at best, ward off but never quite deflect. Why should it be different here?

From such memories came lessons: Jews have to work harder and do better just to stay even. Moreover, they can never be *too* cautious. Which, when I was growing up, meant clean fingernails in the morning and homework after supper, long underwear when it might turn cold and galoshes when it might rain. It meant never crossing on the yellow light or sliding into third base. It meant, above all, getting good marks, even if *that* meant the “honor” of being chosen as one of the Wise Men for the school Christmas pageant. My parents would sit in an auditorium bedecked with tinsel and beam about the first fact (their son was an A student) while they ignored the second (their son, with bathrobe and fake beard, had just brought in his yearly offering of frankincense). I learned the wisdom of explaining Chanukah as Jewish Christmas, the “same as yours, but without a tree” and Passover as Jewish Easter, the “same as yours, but without baskets.” It was diplomatic, which is to say, *easier*. But it also had other, less obvious, advantages that I would not admit until years later — namely, for a brief second, my analogies closed the distance between *us* and “them.”

At the same time, of course, Washington, Pa. was hardly Vilna. In a substantial measure I was formed by the same radio shows and Sunday afternoon matinees as my classmates. After all, had I not the same ears for Fred Allen, the same eyes for Hopalong Cassidy, the same mouth watering for jujubees? But nobody forgot that I was different — a Jew. Try as I might, it kept popping up: when I missed school for the High Holy Days; when two, then three, afternoons a week were consumed by that unexplainable phenomenon known as Hebrew school; when some local priest had railed about “Christkillers” and I stood accused the following day.

No doubt many of the pains — and, for that matter, the pleasures — of grade school had as much to do with the age as with what I thought of as my special circumstances. Long division is, finally, long division and the seemingly endless busywork that teachers assigned (diagramming sentences, memorizing long passages of “Hiawatha,” producing meaningless “book reports” and/or projects on the banana) were the same for Jew and

gentile alike. We endured these together, bound by a conviction that school was *bor-ring* and that, once finished, life would never heap such indignities on us again. We had not reckoned on a high school which turned out to be more of the same, only this time with facial blemishes, sexual anxieties and the first inklings of scholastic competition thrown in for good measure.

In college, however, the situation changed drastically. For one thing, I was no longer the class Jew. At Washington & Jefferson College there were seventy-nine others. If nothing else, the figure had a fearful symmetry all its own: Eighty Jews, eight hundred undergraduates. Even a novel-waving English major like myself could figure out the percentage (read: quota). From time to time the Dean of Students would offer up a limp denial, but nobody was convinced. For us, a keen sense of irony was as necessary for survival as memorizing the Periodic Chart.

Although I went to college *sans* MG, *sans* Bass Weejuns, *sans* cashmere sweaters, *sans* tennis racket, although the fraternity system could not, by both national charter and local inclination, pledge Jews, although I worked afternoons and vacations (returning to school, tanless, after Winter and Spring breaks), I could declare, with only slight tinges of resentment: "This is the life for me!" What mattered was literature. The only people who *really* counted, I kept telling myself, were those articulate, urbane creatures who taught the seminars in John Milton and James Joyce and, perhaps, in a decidedly lesser way, those other English majors who took them. If the ruddy, tousle-haired blondes with freckles and Daddy's money in their pockets did not like us, thought us pushy and grade-grubbing, what did it matter? They would go off to seats on the Stock Market (poor souls!) while we, *we* would traffic in the higher spheres.

A passage from Philip Roth's *My Life as a Man* is instructive here. With some liberties, a change of nuance at one spot, a shading of emphasis at another, it could stand as the essential spirit of Bucknell in 1951 or Washington & Jefferson College in 1963:

The afternoon in May of his senior year when he was invited — not Osterwald who had been invited, not Fischbach, but Zuckerman, the chosen of the Chosen — to take tea with Caroline Benson in the "English" garden back of her house, had been, without question, the most civilized four hours of his life. He had been directed by Miss Benson to bring along with him his senior honors paper he had just completed, and there in a jacket and tie, amid the hundreds of varieties of flowers, none of whose names he knew (except for the rose), sipping as little tea as he could politely get away with (he was unable as yet to dissociate hot tea with lemon from the childhood sickbed) and munching on watercress sandwiches (which he never even heard of before that afternoon — and wouldn't miss if he didn't hear of them again), he read aloud to Miss Benson his thirty-page paper entitled, "Subdued Hysteria: A Study of the Undercurrent of Agony in Some Novels by Virginia Woolf." The paper was replete with all those words that now held such fascination for him, but which he had hardly, if ever, uttered back

in the living room in Camden: "irony" and "values" and "fate," "will" and "vision" and "authenticity," and, of course, "human," for which he had a particular addiction. He had to be cautioned repeatedly in marginal notes about his relentless use of that word. "Unnecessary," Miss Benson would write. "Redundant." "Mannered." Well, maybe unnecessary to her, but not to the novice himself: human character, human possibility, human error, human anguish, human tragedy. Suffering and failure, the theme of so many of the novels that "moved" him, were "human conditions" about which he could speak with an astonishing lucidity and even gravity by the time he was a senior honors student — astonishing in that he was, after all, someone whose own sufferings had by and large been confined up till then to the dentist's chair.<sup>4</sup>

For me, two decades later, the grip of the Miss Bensons could not be as strong — not after reading Saul Bellow, Bernard Malamud and, of course, Philip Roth. If anything, the sixties had made it possible to resist Anglophilism with something of the same mixed emotions that one had railed against WASP fraternity boys. But if I did not feel the same attractions, the same pressures, to affect British postures or to replace the truths of my own experience with adopted, high-sounding metaphors, there were anxious memoments, nonetheless. One learned to swallow hard when Eliot's anti-Semitic lines were glossed over or when Ezra Pound equated the downfall of Western culture with the rise of "usurious yids." These were culture heroes, beyond criticism and certainly a "criticism" that generated from so feeble an impulse as one's Jewishness. As one of my professors put it in graduate school: "One can always transfer to Yeshiva University. I am told that they do not study *The Merchant of Venice* there."

Ironically enough, the response by large segments of the Jewish community to *Goodbye, Columbus* (1959) only complicated the situation. With so many people lobbying for a literature which would be "good for the Jews," which would emphasize "positive" models (rather than their opposite), it was doubly hard to make a case against literary anti-Semitism. However much the older world of Lower East Side tenements or the newer one of split-level suburbia would remain distant, something I read about but had not experienced first-hand, some things about American-Jewish writers were clear: They cared deeply about language. Put another way: They did not reduce complicated matters to ear-splitting clichés, they did not take refuge behind the platitude. Even professors who were mildly amused by my interest in American-Jewish literature chose not to dismiss it with questions like "But you can make a living from *this*?" or, worse, with my uncle's favorite clincher: "The main thing is that you should be healthy." They adopted that wait-and-see attitude which is the privilege of professors and the special burden of their graduate students. But they also stayed out of the way and, at the time, *that* was enough.

4. Philip Roth, *My Life as a Man* (New York: Holt, Rinehart and Winston, 1974), p. 17.

There would be time to fight the academic battle for American-Jewish respectability later — when I had my degree, when I, too, was a *professor*.

As it turned out, brushing off the fuzzy lint of assimilation was more difficult than I had imagined. We continue to think of conformity as a definable moment, a fork in the road, a shoot-out at high noon. And each of us whispers the same noble sentiment: When the time of testing arrives, I will opt for nonconformity. But, alas, conformity happens in small increments and without prior announcement. No corporation sends its new executives memoranda about dress codes (three piece, pin-striped suits are *de rigueur*) or politics (at XYZ Corporation we *all* vote Republican). For one thing, such memos would be counter-productive; for another, they are unnecessary. It is a human truth that peer pressure and role models do the job much more efficiently.

Professors like to think of themselves as exceptions to this rule. They are not. Substitute patched corduroy for pin-striping and vaguely “liberal” stances for staunchly conservative ones and the differences turn out to be those of degree rather than of kind. Like Pogo, I, too, met the enemy and learned that he is *us*. My dissertation on the *schlemiel* might have been a promising beginning, a blow struck at those professors on my examining committee who wondered if I had pulled a fast one by “making up” an author with the wildly improbably name of Mendele Mocher Seforim, but, once behind the lectern, I played by the old rules. It was one thing to talk about James Joyce’s Catholic background when discussing *A Portrait of the Artist as a Young Man* or the impact of Congregationalist hymns when analyzing D.H. Lawrence’s style and quite another to bring up such matters as the code of *mentshlekhkayt*, Y.L. Peretz’s “Bontsha the Silent” and the *lamed vov* when the class was reading I.B. Singer’s “Gimpel the Fool.”

Not surprisingly, I found it easier to be self-righteous in print. There one could talk about Jewishness without having to gaze over the lectern at anxious, note-taking students. At one point, for example, I took certain American-Jewish writers (principally, Philip Roth, but also free-swingers like Bruce Jay Friedman, Stanley Elkin, Mordecai Richler) to task for neglecting their homework:

Familiar with Donne, but not Dubnow, able to draw elaborate charts of Milton’s cosmology, but unsure of the distinctions between *mishnah* and *gemarrah*, the American-Jewish writer often turns out to be far more “American” than “Jewish.”<sup>5</sup>

It was a classic case of “Do as I say, not as I do” — at least, not as I *did* in the classroom.

Academic conferences offered small measures of relief. There, at least, the level of discourse was expected to be higher. One could shoot the

5. Sanford Pinsker, “The Rise-and-Fall of the American-Jewish Novel,” *Connecticut Review* (October 1973): 18.

works, use big words, give to complicated visions the attention they deserved. But if a Yiddish phrase crept into my text on Saul Bellow, I felt an obligation to translate it immediately — from a misplaced sense of academic courtesy? from a sudden fear that my giddy freedom had gone *too* far? from shame? Other English professors, I should add, laced French idioms into their papers on Camus without apology or translation. Jewish professors saved Yiddishisms for the corridors.

Book like Alfred Kazin's *New York Jew* will, no doubt, make these ambivalences easier to discuss, especially for those of us who do not teach in New York City and who speak with less authority than does Professor Kazin. There was a time, some thirty years ago, when Jewish professors were grateful that the doors of academia were opening at a number of colleges and universities which had been Protestant enclaves. It was, I am told, not a time to make waves, to demand that the faculty lunchroom serve corned beef sandwiches on New York rye. That has changed, but so, too, has the central issue. Jewish foods have made larger gains, have generated a wider acceptance than Jewish ideas. *That* is the problem. The New York Intellectuals, formidable though they have been, have had little impact on the way that *The Merchant of Venice* is taught in individual classrooms. English professors, Jewish and non-Jewish alike, continue to mouth the old wisdoms, the old evasions. Academic change comes slowly, very slowly. But our sages speak of beginnings and of their importance. This has been one attempt. My class at 11 o'clock will, I hope, be another.



# SOVIET JEWISH AFFAIRS

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## ARTICLES

### THE JEWISH QUESTION IN RUSSIAN SAMIZDAT

*by Dmitry V. Pospelovsky*

### REFUSENIK LIFE

*by Daniel M. Jaffe*

### THE NAZI RACIAL POLICY TOWARDS THE KARAITES

*by Warren Paul Green*

### THE JEWS IN SLOVAKIA, 1945-1949

*by Yeshayahu Jelinek*

## DOCUMENT

### PROTOCOLS OF THE ANTI-ZIONISTS

*by E. L. Solmar*

## REVIEWS

### ACTIVITIES OF THE INSTITUTE OF JEWISH AFFAIRS IN THE SOVIET AND EAST EUROPEAN FIELD IN 1978

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## A Welcome Antidote

*Jewish Identity in an Age of Ideologies.*  
by JACOB B. AGUS. New York. Frederick Ungar, 1978. 463 pp. \$17.50.

*Reviewed by* CHARLES S. LIEBMAN

JACOB AGUS has written a new book of essays, most of which center around a variety of Jewish philosophies in the modern period and their interrelationship with Western philosophy. They are organized by topic, though they tend to focus on individual philosophers. For example, the first one, "A New Kind of Christian Jewish Disputation," deals primarily with Mendelssohn but includes a discussion of Rosenzweig, as well as the response of a contemporary existentialist thinker, Arthur A. Cohen, to Mendelssohn. Other essays discuss a spectrum of modern Jewish thinkers, placing them in their philosophical context and often juxtaposing them to the major Western philosophers under whose influence they fell or to whom they were responding. The topics in the book include: "In the Light of Philosophical Rationalism," "In the Perspective of German Romanticism," "Are the Jews 'Ahistorical'?", "On the Crossroad Between Liberalism and Nationalism," "The Jews As Socialists Saw Them," "The Zionist Response to Racist Nihilism," "If God Be the Elan Vital," and "Bible Criticism and the Changing Image of the Jew."

Agus' erudition is impressive. I doubt that there is a thoughtful Jew alive who will not learn a great deal from these essays, though they are not easy reading. While the author's style is a model of clarity, his presentation is not lively. In many instances, the selections resemble classroom lectures in which

the student enlarges his fund of knowledge but is not always clear what all that he is learning has to do with him or why he is being told all these things. This statement is not necessarily a criticism of Agus and surely reflects my own disposition and preferences, but the potential reader should be warned.

Agus' own position—religious-rationalism, liberalism and anti-Zionism—receives relatively little emphasis, except in part of the concluding essay "Jewish Self Image in the Postwar World" (dare I call Agus an anti-Zionist, or has that term become so debased by the Arabs on the one hand and Zionist leaders on the other that the uninformed reader may be misled into believing that Agus is hostile to Israel?). This same essay is also devoted to a discussion and a critique of Toynbee's position on Judaism and Israel. It is followed by an Appendix consisting of letters from Toynbee to Agus between 1955 and 1971. The value of the Appendix would have been enhanced by an inclusion of Agus' letters to Toynbee. By the 1960s the two were apparently good friends. I'm not clear if the purpose of the Appendix was to provide Toynbee with an opportunity, as it were, to answer Agus' critique (it doesn't) or to confirm the impression which Agus leaves with us that, while Toynbee is wrong, he is really not such a bad fellow. Since, in the world of scholarship, Toynbee's name does not cut the figure that it did a few years ago, it is easier to be relaxed over his charges. I found myself really offended only by his very last letter, written in 1971. Apparently Agus had requested Toynbee to join in an appeal to the Soviets to permit Jews to emigrate to Israel. The response includes the following paragraph:

I fear that an appeal to the Soviet

Government to relax its oppressiveness would be likely to have a "counter-productive" effect. If such an appeal were to be made, it would be important, I think, to make it on behalf of political, intellectual, and religious freedom in general, and not on the particular issue of allowing Jews from the Soviet Union to migrate to Israel. As I see it, this would be a boomerang, considering that the Arabs who have been dispossessed from their homes and property in what is now Israel are shot if they try to return. There is a parallel to this in the Soviet Union in the treatment there of the deported Crimean Tatars, but Jewish Soviet citizens are, I should guess, better off than the Arab citizens of Israel, or than Jordanian Arabs now under military occupation, or than the Catholics in Northern Ireland (p. 415).

I have always been impressed with Agus' scholarship and the quality of his mind, though I have never been sympathetic to his basic Jewish orientation. I believed that he provided a rationale for Jewish assimilationists. His recent volume gave me the opportunity to rethink my position and I find that I have changed my mind. First of all, assimilationists don't need rationales and, if they do, the strongest case that I know of for assimilation is Hillel Halkin's *Letters to an American Friend*, which Agus himself reviewed so critically in the pages of *JUDAISM*. The question is whether Agus has something to say to those who are Zionists, political conservatives and who incline to a non-rationalist religious position. In other words, can those who reject Agus' ideology benefit not only from his erudition and his fund of information but, also, from his particular philosophy? I think the answer is yes. I feel toward Agus the way that I suspect many Herzlian Zionists felt toward Ahad Ha'am. There is not only respect due to a man for the quality of his mind, his integrity, and his own Jewish com-

mitment. There is also the fact that he reminds us of the dangers inherent in our own ideology when it is carried to an extreme. I may find his conception of Judaism and the program that flows from that conception inadequate. But my fear is not that American Jewry, much less Israeli Jewry, will opt for Agus' position, although he seems to think otherwise. Quite the contrary, I see a danger to Jewish survival and to the Jewish tradition in the undue emphasis on religious irrationalism, ethnicity, territorial fetishism and the longing for Jewish "grandeur" and "majesty." In this respect, I find Agus' ideology less of a threat and more of a welcome antidote.

CHARLES S. LIEBMAN was visiting professor of American Jewish sociology at the Jewish Theological Seminary, on leave from Bar-Ilan University.

### A Valuable Explication

*Reform Judaism Today. Book Two: What We Believe.* By EUGENE B. BOROWITZ. New York. Behrman House, Inc. 1977. 201 pp.

*Reviewed by* S. DANIEL BRESLAUER

IN THREE complementary books, Reform Jewish theologian Eugene B. Borowitz surveys the historical background and present social context, intellectual currents, and prescriptions for Jewish living of his movement. Book I : *Reform in the Process of Change* is a socio-historical study; Book II: *What We Believe* focuses on belief in God, Torah, and Israel; Book III: *How We Live* suggests a "representative stance" on the obligations of a Jew.

The structure of these books is striking — it is a commentary on "Reform Judaism: A Centenary Perspective," the document which was accepted by the 1976 meeting of the Central Conference of

American Rabbis (the organization of Reform rabbinical leaders) as reflecting the new shape of the Reform movement. It can be compared to previous summaries of the Reform position (platforms) published in 1875 and 1937. A major difference, however, separates this statement from previous ones. Those had been promulgated as authoritative statements of principle; this one is an indicative suggestion of common values. The Centenary Perspective distills hours of debate and soul-searching in a few potent sentences; the entire document is only seven pages long but Borowitz finds three volumes of discussion necessary to elucidate it. The Perspective, being a theological guide, needs a competent theologian to interpret it; being a historical summary, it needs a social commentator; being an indication of how Jewish life should be lived, it needs a student of American Jewish social life. Borowitz is all three.

Each of the three books of *Reform Judaism Today* is tied intrinsically with the others and they should be read together to get the full impact of Borowitz's views. But theology is most important as the framework within which history and action are placed. It is not merely accidental that Book II was the first one published (1977) with Books I and III coming next (1978). Neither Book I nor Book III lacks theological depth and insight — although Borowitz disclaims that the section on a Jew's duties is a theology of what a Jew should do. Historical development is referred to in the second book, as are implications of ideas for action. The reader of the first book will be enlightened about the ways in which Reform Judaism has grown and developed; a reader of the third will learn possibilities of modern Jewish action. The second book, however, must be studied by anyone who wishes to know the

concerns of modern Reform Jews who take seriously God, religion, and the covenant with Israel.

Borowitz is well qualified to provide guidance for the reader who seeks to discover the theological questions to which the Centenary Perspective offers answers and his commentary is useful in two ways — he explains enigmatic formulations and he gives the cultural and social background needed for an understanding of the problems besetting a modern Jew who is concerned about theology. A good example of the first type of explication is the discussion of why the two words, "experience" and "conceive," are used to describe man's perception of God. The former term refers to the wide range of human living, the latter to the restricted sphere of intellectual activity. God's "reality," rather than His "existence" is affirmed in the document because the second term brings with it philosophical problems.

Although Book I is specifically dedicated to historical concerns, Borowitz continually refers to the historical and social dimensions of the theological statements made in the Centenary Perspective on God, faith, Jewish peoplehood, and the meaning of revelation. He provides the history of Reform Judaism's struggle with these questions; he notes its continued defense and affirmation of personal autonomy, its concern with practice, its evolving theology of Torah, and its attitude towards the people of Israel, all of which are necessary historical items to place the Perspective in its proper context.

The second aim of his commentary seems to be an elucidation of those social, cultural, and intellectual forces that are responsible for its creation. Much of what is written here appears to be a distillation from Borowitz's other works (in fact, despite the popular character

of the book, a cross-referencing to those works would certainly have been in order). As in *Masks Jews Wear*, the author points out that Jews regained a sense of their own beliefs when confronted by the social, political and cultural crisis of the contemporary scene. Interestingly, while understanding and giving the sanction of true religiousness to the growing ethnic concern among Jews, Borowitz feels it necessary to attach an addendum of his own to that section, pointing out the dangers of too much ethnicity. His review of earlier thinkers — Hermann Cohen, Leo Baeck, Martin Buber, and Franz Rosenzweig — is often cursory and merely highlights points which are developed in *A New Jewish Theology in the Making*. His discussion of Mordecai Kaplan, while also limited, is more extended and tends to be more satisfying.

In many ways, the commentary demonstrates a basic claim that Borowitz has often made — that Jews are more theologically committed than they admit. At times the point is rather stretched — as he himself recognizes. The fact that Jews are loath to eliminate religious worship in favor of the American Oneg Shabbat is hardly proof of their inner recognition that “ethnicity without simultaneous devotion to divinity should not be considered Torah.” It may merely be a case of active superego. Sometimes — although rarely — his own views tend to obscure those of the Centenary Perspective itself. The Perspective announces that “The affirmation of God has always been essential to our people’s will to survive.” This suggests a utilitarian approach to theology. Belief —

whether objectively true or not — is vital to folk existence. God’s reality is not affirmed here — although it is elsewhere — but, rather, the value of belief in that reality for the existence of the Jewish people. There is a certain sociological and psychological merit in such a view; it has a definite philosophical and theological pedigree. Borowitz, however, inverts the claim. According to him, Jews believe in God because they are astounded at the Jewish will to survive. “We care about Jews,” he informs us, “because — quietly to be sure — we care about God.” This theological claim, together with the entire mechanism which Borowitz employs to demonstrate how religious the seemingly secular Jew actually is, can be argued. He needs to substantiate these views with hard sociological data and competent, social, psychological fact and theory. Both are not appropriate to this book, but neither is the type of reversal of intention which his argument seems to work upon the basic document.

Perhaps this last problem arises because this book is really two: an explication of Reform Judaism today and a further demonstration of Borowitz’s own theology. One hopes that the impressions strewn throughout this commentary will be followed by a more rigorous explication and argumentation for his ideas. One can also be thankful that Borowitz has provided the Centenary Perspective with a setting which will make it a primary datum in the study of American Jewish religiousness.

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